Mr. FRAZIER: Committee on the Judiciary. S. 259. An act to discontinue divisions of the court in the district of Kansas; with an amendment (Rept. No. 1243). Referred to the Committee of the Whole House on the State of the Union.

Mr. GORSKI of Illinois: Committee on the Judiciary. H. R. 2166. A bill to amend title 28, United States Code, section 456, so as to increase to $15 per day the limit on subsistence expenses allowed to justices and judges while attending court or transacting official business at places other than their official station, and to authorize reimbursement for such travel by privately owned automobiles at the rate of 7 cents per mile; with an amendment (Rept. No. 1244). Referred to the Committee of the Whole House on the State of the Union.

Mr. KEATING: Committee on the Judiciary. S. 1949. An act to authorize the lease of the Federal correctional institution at Sandstone, Minn., to the State of Minnesota; without amendment (Rept. 1245). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FORD:

H. R. 5948. A bill to amend the Army and Air Force Vitalization and Retirement Equalization Act of 1948; to the Committee on Armed Services.

By Mr. KEEFE:

H. R. 5949. A bill to amend section 2410, United States Code; to the Committee on the Judiciary.

By Mr. WOLCOTT:

H. R. 5950. A bill to establish the United States Air Academy at Selfridge Field, Mount Clemens, Mich.; to the Committee on Armed Services.

By Mr. DAWSON:

H. R. 5951. A bill to amend section 3 of the Travel Expense Act of 1949; to the Committee on Expenditures in the Executive Departments.

By Mr. HERTER:

H. R. 5952. A bill to provide for the lease of the Belasco Theater to the American National Theater and Academy for the presentation of theatrical and musical productions, and for other purposes; to the Committee on Public Works.

By Mr. JUDD:

H. R. 5953. A bill to authorize contributions to Cooperative for American Remittances to Europe, Inc.; to the Committee on Foreign Affairs.

By Mr. SECREST:

H. R. 5954. A bill to provide for the erection of headstones in family cemetery plots in memory of certain members of the armed forces missing, missing in action, or buried at sea; to the Committee on Armed Services.

By Mr. WILSON of Oklahoma:

H. R. 5955. A bill to amend the Army and Air Force Vitalization and Retirement Equalization Act of 1948; to the Committee on Armed Services.

By Mr. BLATNIK:

H. R. 5956. A bill to provide a method of financing the acquisition and construction by the city of Duluth of certain bridges across the Saint Louis River, and for other purposes; to the Committee on Public Works.

By Mr. DONOHUE:

H. R. 5957. A bill to raise the minimum wage standards of the Fair Labor Standards Act of 1938; to the Committee on Education and Labor.

By Mr. MULTER:

H. R. 5958. A bill to provide that pension, compensation, and retirement pay shall be paid during periods of active service and the amount thereof deducted from the amount payable for such active service; to the Committee on Veterans' Affairs.

By Mr. RANKIN:

H. J. Res. 336. Joint resolution to direct the Administrator of Veterans' Affairs to construct certain additional hospital beds and for other purposes; to the Committee on Veterans' Affairs.

By Mr. McMILLAN of South Carolina:

H. J. Res. 337. Joint resolution extending the time for payment of the sums authorized for the relief of the owners of certain properties abutting Eastern Avenue in the District of Columbia; to the Committee on the District of Columbia.

By Mr. SABATH:

H. Res. 323. Resolution creating a select committee to conduct an investigation and study of the use of chemicals, pesticides, and insecticides in and with respect to food products, and for other purposes; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. McKINNON:

H. R. 5959. A bill for the relief of Predrag Mitrovic; to the Committee on the Judiciary.

By Mr. SANBORN:

H. R. 5960. A bill for the relief of Lt. Comdr. Evan L. Krogue; to the Committee on the Judiciary.

By Mr. STOCKMAN:

H. R. 5961. A bill for the relief of Marco Murolo and his wife, Romana Pellis Murolo; to the Committee on the Judiciary.

By Mr. TACKETT:

H. R. 5962. A bill for the relief of Houston Morris Warnix; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

1398. By Mr. SADLAK: Resolution of the Connecticut Council of Women's Republican Clubs urging the Connecticut Members of the Congress of the United States to endeavor to obtain prompt consideration of the recommendations of the Hoover Commission as submitted to the Congress, and to support all necessary and proper legislation which will most effectively carry forward these recommendations; and urging the President of the United States and his various subordinates in the executive department to cooperate and act at once to put into effect the findings, reforms, and changes recommended by the Commission on Organization of the Executive Branch of the Government; to the Committee on Expenditures in the Executive Departments.

SENATE

THURSDAY, AUGUST 11, 1949

(Legislative day of Thursday, June 2, 1949)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

Rev. Bernard Braskamp, D. D., pastor of the Gunton Temple Memorial Presbyterian Church, Washington, D. C., offered the following prayer:

Eternal God, may this be a day when we shall be supremely conscious of Thy presence, Thy peace, and Thy power.

Make us grateful for all our blessings; for the joys which cheer us and the trials which teach us to put our trust in Thee; for good hopes and precious memories; for tasks and responsibilities which challenge the consecration of our noblest manhood; for opportunities to serve our generation and make life less difficult for the needy members of the human family.

Grant that we may seek to have a large part in directing and fashioning the character and conduct of men and nations according to Thy holy will. May the pattern of the Kingdom of God, with its principles of the fatherhood of God and the brotherhood of man, become the plan for the building of a better world.

To Thy name we ascribe the praise. Amen.

THE JOURNAL

On request of Mr. LUCAS, and by unanimous consent, the reading of the Journal of the proceedings of Wednesday, August 10, 1949, was dispensed with.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Miller, one of his secretaries, and he announced that on August 10, 1949, the President had approved and signed the following acts:

S. 111. An act for the relief of Mrs. Pearl Shizuko Okada Pape;

S. 317. An act for the relief of Margita Kofler;

S. 755. An act to extend the time for commencing and completing the construction of a bridge across the Ohio River at or near Shawneetown, Ill.;

S. 803. An act to provide for the conveyance of a tract of land in Prince Georges County, Md., to the State of Maryland for use as a site for a National Guard armory and for training the National Guard or for other military purposes;

S. 905. An act for the relief of John Sewen;

S. 1137. An act to revise and codify laws of the Canal Zone regarding the administration of estates, and for other purposes; and

S. 1577. An act to revive and reenact, as amended, the act entitled "An act creating the City of Clinton Bridge Commission and authorizing said commission and its successors to acquire by purchase or condemnation and to construct, maintain, and operate a bridge or bridges across the Mississippi River at or near Clinton, Iowa, and at or near Fulton, Ill.," approved December 21, 1944.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Swanson, one of its reading clerks, announced that the House had agreed to the amendment of the Senate to the joint resolution (H. J. Res. 208) to amend the joint resolution creating the Niagara Falls Bridge Commission, approved June 16, 1938.

The message also announced that the House had passed a bill (H. R. 5856) to provide for the amendment of the Fair Labor Standards Act of 1938, and for other purposes, in which it requested the concurrence of the Senate.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills and joint

resolutions, and they were signed by the Vice President:

H. R. 91. An act to provide for a research and development program in the Post Office Department;

H. R. 637. An act for the relief of Mrs. Harriett Patterson Rogers;

H. R. 1069. An act for the relief of Albert Burns;

H. R. 1075. An act for the relief of Harry C. Metts;

H. R. 1154. An act to provide authorization for additional funds for the extension and improvement of post-office facilities at Los Angeles, Calif., and for other purposes;

H. R. 1282. An act for the relief of Mrs. T. A. Robertson;

H. R. 1459. An act for the relief of E. Neill Raymond;

H. R. 1516. An act to amend the act entitled "An act to reclassify the salaries of postmasters, officers, and employees of the postal service; to establish uniform procedures for computing compensation; and for other purposes", approved July 6, 1945, so as to provide annual automatic within-grade promotions for hourly employees of the custodial service;

H. R. 1619. An act for the relief of Saint Elizabeth Hospital, Yakima, Wash., and others;

H. R. 1679. An act for the relief of Mrs. Skio Takayama Hull;

H. R. 1720. An act to provide for the conveyance of certain land in Missoula County, Mont., to the State of Montana for the use and benefit of Montana State University;

H. R. 1857. An act for the relief of the estate of Josephine Pereira;

H. R. 1993. An act for the relief of Samuel Fadem;

H. R. 2095. An act for the relief of the estate of Kenneth N. Peel;

H. R. 2214. An act to provide for the development, administration, and maintenance of the Suitland Parkway in the State of Maryland as an extension of the park system of the District of Columbia and its environs by the Secretary of the Interior, and for other purposes;

H. R. 2239. An act for the relief of the estate of W. M. West;

H. R. 2253. An act for the relief of the legal guardian of Arthur Earl Troiel, Jr., a minor;

H. R. 2344. An act for the relief of Charles W. Miles;

H. R. 2456. An act for the relief of Charlie Hales;

H. R. 2572. An act to extend to commissioned officers of the Coast and Geodetic Survey the provisions of the Armed Forces Leave Act of 1946;

H. R. 2602. An act for the relief of John B. Boyle;

H. R. 2608. An act for the relief of C. H. Dutton Co., of Kalamazoo, Mich.;

H. R. 2662. An act to grant time to employees in the executive branch of the Government to participate, without loss of pay or deduction from annual leave, in funerals for deceased members of the armed forces returned to the United States for burial;

H. R. 2704. An act for the relief of Freda Wahler;

H. R. 2806. An act for the relief of Paul C. Juneau;

H. R. 2807. An act for the relief of Loretta B. Powell;

H. R. 2869. An act to authorize an appropriation in aid of a system of drainage and sanitation for the city of Polson, Mont.;

H. R. 2925. An act for the relief of Ida Hoheisel, executrix of the estate of John Hoheisel;

H. R. 2931. An act to provide for the conveyance by the United States to Frank C. Wilson of certain lands formerly owned by him;

H. R. 3139. An act for the relief of James B. DeHart;

H. R. 3193. An act for the relief of Public Utility District No. 1, of Cowlitz County, Wash.;

H. R. 3408. An act for the relief of Opal and D. A. Hayes;

H. R. 3461. An act for the relief of Lester B. McAllister and others;

H. R. 3501. An act for the relief of Nelson Bell;

H. R. 3756. An act to amend the Civil Service Retirement Act of May 29, 1930, to provide that the annuities of certain officers and employees engaged in the enforcement of the criminal laws of the United States shall be computed on the basis of their average basic salaries for any five consecutive years of allowable service;

H. R. 3788. An act to authorize the Secretary of the Interior to construct, operate, and maintain the Vermejo reclamation project, New Mexico;

H. R. 4097. An act for the relief of George M. Bersley, Edward D. Sexton, and Herman J. Williams;

H. R. 4138. An act for the relief of Herbert L. Hunter;

H. R. 4307. An act for the relief of Ever Ready Supply Co. and Harold A. Dahlborg;

H. R. 4854. An act for the relief of Mrs. Miriam G. Wornum;

H. R. 4948. An act relating to the policing of the building and grounds of the Supreme Court of the United States;

H. R. 5034. An act to authorize the taxation of Indian land holdings in the town of Lodge Grass, Mont., to assist in financing a municipal water supply and sewerage system;

H. R. 5114. An act to amend the Internal Revenue Code to permit the use of additional means, including stamp machines, for payment of tax on fermented malt liquors, provide for the establishment of brewery bottling house on brewery premises, and for other purposes;

H. R. 5188. An act to provide for the preparation of a plan for the celebration of the one hundredth anniversary of the building of the Soo locks;

H. R. 5831. An act to exempt certain volatile fruit-flavor concentrates from the tax on liquors;

H. J. Res. 188. Joint resolution to provide for the coinage of a medal in recognition of the distinguished services of Vice President ALBEN W. BARKLEY; and

H. J. Res. 242. Joint resolution extending for 2 years the existing privilege of free importation of gifts from members of the armed forces of the United States on duty abroad.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. TYDINGS. Mr. President, I ask unanimous consent that the Committees on Foreign Relations and Armed Services, which are now meeting jointly, be permitted to sit this afternoon during the session of the Senate, as they are anxious to release many witnesses who must wait until the hearings are completed.

The VICE PRESIDENT. Without objection, it is so ordered.

On request of Mr. HOEY the Subcommittee on Investigations of the Committee on Expenditures in the Executive Departments was granted permission to hold sessions this afternoon and tomorrow afternoon during the sessions of the Senate.

CALL OF THE ROLL

Mr. LUCAS. I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Aiken	Hill	Millikin
Anderson	Hoey	Morse
Baldwin	Holland	Mundt
Brewster	Humphrey	Murray
Bridges	Hunt	Neely
Butler	Ives	O'Conor
Byrd	Johnson, Colo.	O'Mahoney
Cain	Johnson, Tex.	Pepper
Capehart	Johnston, S. C.	Reed
Chavez	Kefauver	Robertson
Connally	Kem	Russell
Cordon	Kerr	Saltonstall
Donnell	Kilgore	Schoeppel
Douglas	Knowland	Smith, Maine
Downey	Langer	Smith, N. J.
Dulles	Lodge	Sparkman
Ecton	Long	Stennis
Ellender	Lucas	Taft
Ferguson	McCarran	Taylor
Flanders	McCarthy	Thomas, Okla.
Frear	McClellan	Thomas, Utah
Fulbright	McFarland	Thye
George	McGrath	Tobey
Gillette	McKellar	Tydings
Graham	McMahon	Vandenberg
Green	Magnuson	Watkins
Gurney	Malone	Wherry
Hayden	Martin	Wiley
Hendrickson	Maybank	Williams
Hickenlooper	Miller	Young

Mr. LUCAS. I announce that the Senator from Kentucky [Mr. CHAPMAN], the Senator from Mississippi [Mr. EASTLAND], and the Senator from Pennsylvania [Mr. MYERS] are absent on public business.

The Senator from Kentucky [Mr. WITHERS] is absent on public business.

Mr. SALTONSTALL. I announce that the Senator from Ohio [Mr. BRICKER] and the Senator from Indiana [Mr. JENNER] are necessarily absent.

The VICE PRESIDENT. A quorum is present.

TRANSACTION OF ROUTINE BUSINESS

Mr. LUCAS. Mr. President, I ask unanimous consent that Members of the Senate be permitted to submit petitions and memorials, introduce bills and resolutions, and incorporate routine matters into the RECORD without debate.

The VICE PRESIDENT. Without objection, it is so ordered.

EXECUTIVE COMMUNICATIONS, ETC.

The VICE PRESIDENT laid before the Senate the following letters, which were referred, as indicated:

PRICE OF RECORD FURNISHED BY INTERIOR DEPARTMENT

A letter from the Secretary of the Interior, transmitting a draft of proposed legislation to amend an act fixing the price of copies of records furnished by the Department of the Interior (with an accompanying paper); to the Committee on Interior and Insular Affairs.

CONSTRUCTION OF PUBLIC AIRPORTS IN ALASKA

A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend section 10 of the act of May 28, 1948 (Public Law 562, 80th Cong.) to authorize the appropriation of $17,000,000 for the construction of public airports in the Territory of Alaska (with accompanying papers); to the Committee on Interstate and Foreign Commerce.

REPORT ON IMPROPER HANDLING OF CERTAIN FUNDS

A letter from the Comptroller General of the United States, transmitting a special report on the improper handling of certain funds coming into the hands of persons in the service of the United States in their official capacity (with accompanying papers);

to the Committee on Expenditures in the Executive Departments.

REPORT OF BOARD OF GOVERNORS OF FEDERAL RESERVE SYSTEM

A letter from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the thirty-fifth annual report of the Board, covering operations for the year 1948 (with an accompanying report); to the Committee on Banking and Currency.

PETITIONS

Petitions were laid before the Senate, and referred as indicated:

By the VICE PRESIDENT:

A resolution adopted by the General Society, Sons of the Revolution, assembled in Newport, R. I., favoring the enactment of legislation to provide for the protection of the flag from mutilation and desecration; to the Committee on the Judiciary.

A petition signed by O. W. McDonald, president, and 344 members of the Lot and Grave Owners Association, Columbian Harmony Cemetery, Inc., Washington, D. C., relating to the abandonment of the Columbian Harmony Cemetery (with an accompanying paper); to the Committee on the District of Columbia.

REPORTS OF A COMMITTEE

The following reports of a committee were submitted:

By Mr. JOHNSON of Colorado, from the Committee on Interstate and Foreign Commerce:

H. R. 160. A bill to amend section 801 of the Federal Food, Drug, and Cosmetic Act, as amended; without amendment (Rept. No. 890); and

H. R. 1746. A bill to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes; without amendment (Rept. No. 891).

AMENDMENT OF NATIONAL HOUSING ACT—REPORT OF A COMMITTEE

Mr. SPARKMAN. Mr. President, from the Committee on Banking and Currency, I report favorably, with amendments, the bill (S. 2246) to amend the National Housing Act, as amended, and I submit a report (No. 892) thereon.

The VICE PRESIDENT. The report will be received, and the bill will be placed on the calendar.

Mr. MAYBANK. Mr. President, in connection with the bill just reported by the Senator from Alabama [Mr. SPARKMAN], I ask unanimous consent that a letter addressed to me by Robert R. Poston, associate director, National Legislative Commission, Washington, D. C., dated August 5, 1949, be printed in full in the RECORD.

The letter shows the absolute necessity for direct loans to veterans. Title 4 of the bill is most important to all Legionnaires, Veterans of Foreign Wars, Disabled War Veterans, other veterans, and their widows. This title provides that in the event the veteran is not able to procure a loan in the private home-loan market—and there is every reason to believe he will because of the increased guaranties and the 100-percent "Fanny May" secondary market for this type of loan provided for in this bill—the veteran may get a loan directly from the Veterans' Administration.

As the report submitted by the Senator from Alabama points out, this provision merely implements the intention of Congress to assure to every veteran who wants to purchase his own home a 4-percent mortgage. Mr. Poston well stated the case for the inclusion of this section in the bill when he said:

As conceived by the sponsors of the legislation and as supported by he American Legion, this provision would be utilized only when applicants who are good credit risks are refused a GI loan by private sources. Its purpose is to make certain that the success of the entire GI loan program shall not be nullified by the resistance of a minority of lenders motivated by a desire for unreasonable profit or other factors not in the veterans' or public interest. Unless such a proviso is introduced into the home-financing market, there is a very real chance that only a comparatively small number of veterans will enjoy the advantages of a loan-guaranty service which Congress clearly intended for all.

The VICE PRESIDENT. Without objection, the letter presented by the Senator from South Carolina will be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE AMERICAN LEGION,
NATIONAL LEGISLATIVE COMMISSION,
Washington, D. C., August 5, 1949.

Hon. BURNET R. MAYBANK,
United States Senate,
Washington, D. C.

DEAR SENATOR MAYBANK: We understand that the Banking and Currency Committee of the Senate soon will consider in executive session S. 2246, a housing bill whose purpose is to help middle-income families house themselves at a price they can afford to pay. The American Legion, on the basis of resolutions adopted by its last national convention, endorses this bill in principle and urges you to support it.

The American Legion is particularly interested in title IV of the measure, containing amendments to title III of the Servicemen's Readjustment Act of 1944. The amendments, as included in S. 2246 when introduced in the Senate, provide for:

1. An expanded secondary market for GI first-mortgage loans;
2. Increased guaranty maximums for GI first-mortgage loans;
3. Stand-by direct loans, under certain conditions; and
4. Elimination of Section 505a of the Servicemen's Readjustment Act.

These amendments were drafted in the interest of the veteran who needs a home, to counterbalance the more liberal consumer-credit aids given nonveterans under existing laws and those additional aids proposed in title I of S. 2246.

The most controversial and significant of the amendments is the one providing for a stand-by direct loan to be made to veterans who are qualified but are unable to obtain such loans from a private lender. The direct loan would bear 4 percent interest. As conceived by the sponsors of the legislation and as supported by the American Legion, this provision would be utilized only when applicants who are good credit risks are refused a GI loan by private sources. Its purpose is to make certain that the success of the entire GI loan program shall not be nullified by the resistance of a minority of lenders motivated by a desire for unreasonable profit or other factors not in the veterans' or public interest. Unless such a proviso is introduced into the home-financing market there is a very real chance that only a comparatively small number of veterans will enjoy the advantages of a loan-guaranty service which Congress clearly intended for all.

Through enactment of title III of the Servicemen's Readjustment Act, veterans were invited to make use of home financing terms embodying definite advantages with regard to origination charges, carrying costs, and low equity requirements. In administration, this title has done more to solve the housing problems of World War II veterans than has any other legislation developed on this subject.

Perhaps the most beneficial single factor has been the 4 percent interest rate, allowing the veteran home-buyer to keep his monthly payments within his ability to pay.

Present yield rates on alternate investments provide greater reason for retaining this low interest charge than at any time since enactment of the Servicemen's Readjustment Act.

Sincerely yours,

ROBERT R. POSTON,
Associate Director,
National Legislative Commission.

HEARINGS BEFORE COMMITTEE ON FOREIGN RELATIONS

Mr. HAYDEN. Mr. President, from the Committee on Rules and Administration, I report favorably without amendment Senate Resolution 148, and ask for its immediate consideration.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

Mr. WHERRY. Mr. President, reserving the right to object, I ask the Senator whether the resolution provides for an additional amount of $10,000 over and above the amount the committee has previously spent for the same purposes?

Mr. HAYDEN. The committee has held extensive hearings, and the additional amount is needed.

Mr. WHERRY. I have no objection.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 148), submitted by Mr. CONNALLY on August 2, 1949, was considered and agreed to, as follows:

Resolved, That the Committee on Foreign Relations hereby is authorized to expend from the contingent fund of the Senate, during the Eighty-first Congress, $10,000 in addition to the amount, and for the same purposes, specified in section 134 (a) of the Legislative Reorganization Act approved August 2, 1946.

REORGANIZATION PLAN NO. 1 OF 1949—INDIVIDUAL VIEWS—(PT. 3 OF REPT. NO. 851)

Mrs. SMITH of Maine, as a member of the Committee on Expenditures in the Executive Departments, submitted her individual views on the resolution (S. Res. 147) disapproving Reorganization Plan No. 1 of 1949, which were ordered to be printed.

HEARINGS BEFORE COMMITTEE ON ARMED SERVICES—ADDITIONAL EXPENDITURES

Mr. HAYDEN. Mr. President, from the Committee on Rules and Administration I report favorably without amendment Senate Resolution 149, and ask for its immediate consideration.

The VICE PRESIDENT. Is there objection?

Mr. WHERRY. Mr. President, reserving the right to object, the resolution provides for an additional amount for a regular standing committee, in addition to the amount and for the same purposes as previously provided.

Mr. HAYDEN. That is correct.

Mr. WHERRY. I have no objection.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 149), submitted by Mr. TYDINGS on August 3, 1949, was considered and agreed to, as follows:

Resolved, That the Committee on Armed Services hereby is authorized to expend from the contingent fund of the Senate, during the Eighty-first Congress, $10,000 in addition to the amount, and for the same purposes, specified in section 134 (a) of the Legislative Reorganization Act approved August 2, 1946.

PRINTING OF ADDITIONAL COPIES OF SENATE REPORT NO. 88, JOINT COMMITTEE ON THE ECONOMIC REPORT

Mr. HAYDEN. Mr. President, from the Committee on Rules and Administration I report favorably without amendment, Senate Resolution 150, and ask for its immediate consideration.

The VICE PRESIDENT. Is there objection?

Mr. WHERRY. Mr. President, reserving the right to object; that resolution also includes an amount for the printing of minority views, if the minority chooses to have them printed?

Mr. HAYDEN. The majority and minority views will be printed together. The cost is less than $600.

Mr. WHERRY. Mr. President, I have no objection.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 150), submitted by Mr. O'MAHONEY on August 4, 1949, was considered and agreed to, as follows:

Resolved, That there be printed 2,000 additional copies of Senate Report No. 88, the report of the Joint Committee on the Economic Report on the January 1949 Economic Report of the President, for the use of said joint committee.

INCREASE IN LIMIT OF EXPENDITURES BY COMMITTEE ON PUBLIC WORKS

Mr. HAYDEN. Mr. President, from the Committee on Rules and Administration I report favorably, without amendment, Senate Resolution 123, and ask for its immediate consideration.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

Mr. WHERRY. Mr. President, reserving the right to object; I ask, is this a regular committee appropriation?

Mr. HAYDEN. It is.

Mr. WHERRY. I have no objection.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 123) submitted by Mr. CHAVEZ on June 6, 1949, was considered and agreed to, as follows:

Resolved, That in holding hearings, reporting such hearings, and making investigations as authorized by section 134 of the Legislative Reorganization Act of 1946, the Committee on Public Works, or any duly authorized subcommittee thereof, is authorized during the Eighty-first Congress to make such expenditures, and to employ upon a temporary basis such investigators, and such technical, clerical, and other assistants, as it deems advisable.

SEC. 2. The expenses of the committee under this resolution, which shall not exceed $50,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

REIMBURSEMENT FOR OFFICIAL TRAVEL BY PRIVATELY OWNED AUTOMOBILES BY CERTAIN OFFICERS AND EMPLOYEES OF THE COURTS—RETURN OF BILL BY HOUSE OF REPRESENTATIVES

Mr. LUCAS submitted the following resolution (S. Res. 153), which was considered by unanimous consent and agreed to:

Resolved, That the House of Representatives be, and it is hereby, requested to return to the Senate the bill (S. 51) to amend title 28, United States Code, section 962, so as to authorize reimbursement for official travel by privately owned automobiles by officers and employees of the courts of the United States and of the Administrative Office of the United States Courts at a rate not exceeding 7 cents per mile.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. SALTONSTALL:

S. 2420. A bill for the relief of Shaoul Minsahi Shami, Emily Shami, Joseph Clement Shami, and Charles Henry Shami; to the Committee on the Judiciary.

By Mr. STENNIS:

S. 2421. A bill to authorize the erection of a monument to the Le Moyne brothers in Biloxi, Miss.; to the Committee on Rules and Administration.

By Mr. McCLELLAN:

S. 2422. A bill to amend section 3 of the Travel Expense Act of 1949 with respect to officers and employees becoming incapacitated while in travel status; to the Committee on Expenditures in the Executive Departments.

By Mr. THOMAS of Oklahoma:

S. 2423. A bill to amend section 7 of the act of February 27, 1925 (43 Stat. 1008), relating to the Osage Indians of Oklahoma; to the Committee on Interior and Insular Affairs.

By Mr. BYRD:

S. 2424. A bill conferring jurisdiction upon the Court of Claims of the United States to hear, examine, adjudicate, and render judgment on the claim of the legal representatives of the estate of Robert Lee Wright; to the Committee on the Judiciary.

HOUSE BILL PLACED ON THE CALENDAR

The bill (H. R. 5856) to provide for the amendment of the Fair Labor Standards Act of 1938, and for other purposes, was read twice by its title, and ordered to be placed on the calendar.

REORGANIZATION PLAN NO. 1 AND THE AMA—ARTICLE BY AGNES E. MEYER

[Mr. MURRAY asked and obtained leave to have printed in the RECORD an article entitled "Reorganization Plan No. 1 and the Stand of the AMA," written by Agnes E. Meyer, and published in the Washington Post of August 11, 1949.]

AMERICAN POLICY IN CHINA—ARTICLE BY RAY RICHARDS

[Mr. FERGUSON asked and obtained leave to have printed in the RECORD an article written by Ray Richards, of the Hearst newspapers, Washington bureau, under date of August 10, 1949, dealing with the American mediation between the Communists and Nationalists in China, which appears in the Appendix.]

BRITAIN'S FINANCIAL PREDICAMENT—ARTICLE BY GEORGE ROTHWELL BROWN

[Mr. WILLIAMS asked and obtained leave to have printed in the RECORD an article on Britain's financial predicament, written by George Rothwell Brown, and published in the Washington Times-Herald of August 11, 1949, which appears in the Appendix.]

MARSHALL-PLAN ASSISTANCE TO GREAT BRITAIN—EDITORIAL FROM THE HOUSTON POST

[Mr. KEM asked and obtained leave to have printed in the RECORD an editorial entitled "Saving the Opposition," from the Houston Post of August 9, 1949, which appears in the Appendix.]

FORMER PRESIDENT HERBERT HOOVER'S ADDRESS AT STANFORD UNIVERSITY

Mr. WHERRY. Mr. President, the only living former President of the United States, the Honorable Herbert Hoover, last night, on the occasion of his seventy-fifth birthday anniversary, delivered an address before a huge throng that had assembled to honor him at Stanford University.

This great statesman, speaking from a wealth of experience that has come to few men, uttered counsel and encouragement to his beloved fellow countrymen. He spoke as an American to Americans, with no tinge of partisanship—only in the interest of maintaining the principle of our Republic against the onslaughts of socialism.

Although his address was delivered over the major radio networks and was carried by the press generally, I believe all Senators join me in the desire that the former President's address be placed in the record of official proceedings of the Congress.

Therefore, I ask unanimous consent that the address be inserted in the body of the RECORD at this point in my remarks, there to remain in the archives of our Government.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

My first duty is to acknowledge your generous reception and these most generous gifts to the library.

It is now 34 years since this library on war, revolution, and peace was founded. Over these years friends of the library have contributed over $3,450,000 toward its support. And of priceless value have been the millions of documents and materials furnished freely by hundreds of individuals and three-score governments.

The institution is not a dead storage. It is a living thing which over the years will correct a vast amount of error in the history of these troubled times. It will also teach the stern lessons of how nations may avoid war and revolution.

Not being a Government institution, it has never received a dime from Government sources, and its scholars, therefore, can be as free as the Sierra winds in its use and in the expression of objective truth.

In the somber situation of the world I would be derelict if today I discussed the lighter side of life, instead of the serious issues which weigh on my heart.

Some of you will know that during the last 2 years I have added somewhat to my previous knowledge of the currents of government

in this Republic. Beyond the immediate problems of efficient organization of the Federal departments there arise from these investigations some grave questions as to our whole future as a Nation.

CALLS NEXT GENERATION REAL TEST

Now, as never before, we need thinking on some of these questions. If America is to be run by the people, it is the people who must think. And we do not need to put on sackcloth and ashes to think. Nor should our minds work like a sundial which records only sunshine. Our thinking must square against some lessons of history, some principles of government and morals, if we would preserve the rights and dignity of men to which this nation is dedicated.

The real test of our thinking is not so much the next election as it is the next generation.

I am not going to offer you solutions to our national ills. But I shall list some items for thought. Perhaps in Japanese-English a subhead would be "Bring feet from clouds into swamp where we now are."

We must wish to maintain a dynamic progressive people. No nation can remain static and survive. But dynamic progress is not made with dynamite. And that dynamite today is the geometrical increase of spending by our governments—Federal, State, and local.

Perhaps I can visualize what this growth has been. Twenty years ago all varieties of government, omitting Federal debt service, cost the average family less than $200 annually. Today, also omitting debt service, it costs an average family about $1,300 annually.

This is bad enough. But beyond this is the alarming fact that at this moment executives and legislatures are seriously proposing projects which, if enacted, would add one-third more annually to our spending. Add to these the debt service and the average family may be paying $1,900 yearly taxes. They may get a little back if they live to over 65 years of age.

RISE IN GOVERNMENT WORKERS

No doubt life was simpler about 147 years ago, when our Government got well under way. At that time there was less than one government employee, Federal, State, and local, including the paid military, to each 120 of the population. Twenty years ago there was 1 government employee to about 40 of the population. Today there is 1 government employee to about every 22 of the population. Worse than this, there is today 1 government employee to about 8 of the working population.

Twenty years ago persons directly or indirectly receiving regular moneys from the Government—that is, officials, soldiers, sailors, pensioners, subsidized persons, and employees of contractors working exclusively for the Government—represented about 1 person in every 40 of the population.

Today about one person out of every seven in the population is a regular recipient of Government moneys. If those of age are all married, they comprise about one-half the voters of the last Presidential election.

Think it over.

In the long run it is the average working citizen who pays by hidden and other taxes. I have made up a little table showing the number of days which this kind of citizen must work on average to pay the taxes.

DAY'S WORK

Obligations from former wars	11
Defense and cold war	24
Other Federal expenditures	12
State and local expenditures	14
Total thus far	61

But beyond this, the seriously proposed further spending now in process will take another 20 days' work from Mr. and Mrs. Average W. Citizen.

Taking out holidays, Sundays and average vacations, there are about 235 working days in the year. Therefore, this total of 81 days' work a year for taxes is about 1 week out of every month.

You might want to work for your family instead of paying for a giant bureaucracy.

Think it over.

IT ALL COMES OUT OF SAVINGS

To examine what we are doing, we must get away from such sunshine figures as the gross national income. We must reduce our problem to the possible savings of the people after a desirable standard of living. If we adopt the Federal Government's estimate of such a desirable standard, then the actual, and the seriously proposed, national and local government spending will absorb between 75 to 85 percent of all the savings of the people. In practice it does not work evenly. The few will have some savings, but the many must reduce their standard of living to pay the tax collector.

And it is out of savings that the people must provide their individual and family security. From savings they must buy their homes, their farms, and their insurance. It is from their savings finding their way into investment that we sustain and stimulate progress in our productive system.

One end result of the actual and proposed spendings and taxes to meet them is that the Government becomes the major source of credit and capital to the economic system. At best the small-business man is starved in the capital he can find. Venture capital to develop new ideas tends to become confined to the large corporations and they grow bigger. Governments do not develop gadgets of improved living.

Another end result is to expose all our independent colleges and other privately supported institutions to the risk of becoming dependent upon the state. Then, through politics we will undermine their independence which gives stimulus to Government-supported institutions.

No nation grows stronger by subtraction.

Think it over.

WHERE WILL THE MONEY COME FROM?

It is proposed that we can avoid these disasters by more Government borrowing. That is a device to load our extravagance and waste on to the next generation. But increasing Government debts can carry immediate punishment for that is the road to inflation. There is far more courage in reducing our debts than in increasing them. And that is a duty to our children.

And there is no room for this spending and taxes except to cut the standard of living of most of our people. It is easy to say increase corporation taxes. That is an illusion. The bulk of corporation taxes, is passed on to the consumer—that is to every family. It is easy to say increase taxes on the higher personal-income brackets. But if all income over $8,000 a year were confiscated, it would cover less than 10 percent of these actual and proposed spendings.

The main road is to reduce spending and waste and defer some desirable things for a while.

There are many absolute necessities and there are many less urgent, meritorious and desirable things that every individual family in the Nation would like to have but cannot afford. To spend for them or borrow money for them would endanger the family home and the family life. So it is with the national family.

So long as we must support the necessary national defense and cold war at a cost of 24 days' work per year to Mr. Average W. Citizen, there are many comforting things that should be deferred if we do not wish to go down this road to ruin of our national family life.

Think it over.

Along this road of spending, the Government either takes over, which is socialism, or dictates institutional and economic life which is fascism.

The American mind is troubled by the growth of collectivism throughout the world.

SAYS REDS CAN'T DESTROY REPUBLIC

We have a few hundred thousand Communists and their fellow travelers in this country. They cannot destroy the Republic. They are a nuisance and require attention. We also have the doctrinaire Socialists who peacefully dream of their utopia.

But there is a considerable group of fuzzy-minded people who are engineering a compromise with all these European infections. They fail to realize that our American system has grown away from the systems of Europe for 250 years. They have the foolish notion that a collectivist economy can at the same time preserve personal liberty and constitutional government.

The steady lowering of the standard of living by this compromised collectivist system under the title "austerity" in England should be a sufficient spectacle. It aims at a fuller life but it ends in a ration.

Most Americans do not believe in these compromises with collectivism. But they do not realize that through governmental spending and taxes our Nation is blissfully driving down the back road to it at top speed.

In the end, these solutions of national problems by spending are always the same—power, more power, more centralization in the hands of the state.

We have not had a great socialization of property, but we are on the last mile to collectivism through governmental collection and spending of the savings of the people.

Think it over.

A device of these advocates of gigantic spending is the manipulation of words, phrases, and slogans to convey new meanings different from those we have long understood. These malign distortions drug thinking. They drown it in emotion. We see Government borrowing and spending transferred into the soft phrase "deficit spending." The slogan of a "welfare state" has emerged as a disguise for the totalitarian state by the route of spending. Thomas Jefferson would not recognize this distortion of his simple word "welfare" in the Constitution. Jefferson's idea of the meaning of welfare lies in his statement "to preserve our independence * * * we must make a choice between economy and liberty or profusion and servitude. * * * If we can prevent Government from wresting the labors of the people under the pretense of caring for them we shall be happy."

Another of these distortions is by those who support such a state and call themselves "liberals." John Morley would not recognize them.

Out of these slogans and phrases and new meanings of words come vague promises and misty mirages, such as "security from the cradle to the grave," which frustrate those basic human impulses to production which make a dynamic nation.

Think it over.

It is customary to blame the administrations or the legislatures for this gigantic increase in spending, these levies on the Nation's workdays, and this ride to a dead end of our unique and successful American system. A large cause of this growing confiscation of the work of the people by our various governments is the multitude of great pressure groups among our citizens. Also, the State and municipal governments pressurize the Federal Government. And within the Federal Government are pressure groups building their own empires.

Aggression of groups and agencies against the people as a whole is not a process of free men. Special privilege either to business or groups is not liberty.

WHY PRESSURE GROUPS SUCCEED

Many of these groups maintain paid lobbies in Washington or in the State capitals to press their claims upon the administrations or the legislatures.

Our representatives must run for election. They can be defeated by these pressure groups. Our officials are forced to think in terms of pressure groups, not in terms of needs of the whole people.

Perhaps some of my listeners object to somebody else's pressure group. Perhaps you support one of your own. Perhaps some of you do not protest that your leaders are not acting with your authority.

Think it over.

And finally, may I say that thinking and debate on these questions must not be limited to legislative halls. We should debate them in every school. We should resort to the old cracker-barrel debate in every corner grocery. There phrases and slogans can be dissolved in common sense and integrity.

A splendid storehouse of integrity and freedom has been bequeathed to us by our forefathers. In this day of confusion of peril to liberty, our high duty is to see that this storehouse is not robbed of its contents.

We dare not see the birthright of posterity to individual independence, initiative, and freedom of choice bartered for a mess of a collectivist system.

My word to you, my fellow citizens, on this seventy-fifth birthday is this: The founding fathers dedicated the structure of our Government "to secure the blessings of liberty to ourselves and our posterity." We of this generation inherited this precious blessing. Yet as spendthrifts we are on our way to rob posterity of its inheritance.

The American people have solved many great crises in national life. The qualities of self-restraint, of integrity, of conscience and courage still live in our people. It is not too late to summon these qualities.

MISREPRESENTATION OF IMPLICATIONS OF VOTES CAST IN THE SENATE

Mrs. SMITH of Maine. Mr. President, I ask unanimous consent to include in the RECORD at this point a letter which I have written to the Detroit Labor News, pointing out the inaccuracies and misrepresentations in an article appearing in the Detroit Labor News, issue of May 6, 1949.

This is another example of the way in which the votes of those of us in Congress are sometimes inaccurately reported and even misrepresented.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UNITED STATES SENATE,
Washington, D. C., August 9, 1949.

FRANK X. MARTEL,
Editorial Director, Detroit Labor News, Detroit, Mich.

DEAR MR. MARTEL: The May 6, 1949, edition of the Detroit Labor News has been called to my attention in which the paper has recorded me as having voted against TVA expansion, against national defense, and against the American people; with being subject to the command of the Power Trust lobby; with having said, "To hell with our States and constituents, our first loyalty is to the Power Trust"; and with having said "To hell with New England, our first loyalty is to the Power Trust."

As your standard for these representations you have taken the voting in the Senate on April 13, 1949, and specifically (1) the Bridges amendment to eliminate funds for the New Johnsonville steam plant in the TVA system, and (2) the Ferguson amendment authorizing taxpayers and consumers to test the constitutionality of the construction of any steam plant by TVA.

I invite your attention to page 4482 of the CONGRESSIONAL RECORD. You will see that on that page I am recorded as having voted against the Bridges amendment and for the New Johnsonville plant expansion of TVA. In view of this I think your statements are gross misrepresentations. To the contrary I voted for TVA expansion. So did the following Senators whom you have done an equal injustice to: BREWSTER, BUTLER, CAIN, CORDON, DONNELL, GILLETTE, KNOWLAND, THYE, WATKINS, and WHERRY.

It is also equally interesting that you should list under your chosen category of "For the TVA expansion and for national defense and for the American defense and for the American people," the following Senators who are recorded on page 4482 as voting for the Bridges amendment and against the New Johnsonville plant expansion of TVA: FREAR, KILGORE, MYERS, and NEELY.

The only explanation of your discriminatory reporting against myself and Senators BREWSTER, BUTLER, CAIN, CORDON, DONNELL, GILLETTE, KNOWLAND, THYE, WATKINS, and WHERRY, and your discrimination for Senators FREAR, KILGORE, MYERS, and NEELY, is that you chose to take the roll call on the Ferguson amendment, which was on the question of constitutionality challenge right and not on expansion, instead of the Bridges amendment, which was solely on the question of TVA expansion and the New Johnsonville plant.

I am at a loss as to why you chose the Ferguson amendment as the standard on the question of TVA expansion instead of the Bridges amendment, and why you failed to list the roll call on the Bridges amendment. I voted 50-percent right by your own chosen standards. Yet you accuse me of being a puppet of the Power Trust. Others who voted directly against TVA expansion you praise as having voted for the American people.

I cannot believe that you are actually serious in the profane language which you have ascribed to me in the article in your paper.

Sincerely yours,
MARGARET CHASE SMITH,
United States Senator.

AMENDMENT TO INTERNAL REVENUE CODE TO TAX COOPERATIVES—STATEMENT BY SENATOR DOUGLAS

Mr. DOUGLAS. Mr. President, I ask unanimous consent to have printed in the RECORD for the information of Senators a brief statement of mine concerning certain correspondence I have had in the last 4 days from constituents in Illinois on the subject of the amendment to the Internal Revenue Code, to tax cooperatives, introduced last Wednesday by the senior Senator from Delaware [Mr. WILLIAMS].

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR PAUL H. DOUGLAS

Immediately following the submission by the senior Senator from Delaware of his amendment to H. R. 3905 last Wednesday to tax certain cooperatives and cooperative funds now exempt, I received a goodly number of telegrams from Illinois in support of taxing these cooperatives.

A quick glance at these messages revealed that almost all of them followed, in identical phraseology, one or another of six patterns. These were as follows:

1. Urge your support of excise-tax reduction, replacing revenue loss by taxing the untaxed: 44 telegrams.

2. Stimulate business by reducing excise taxes and taxing my untaxed business competitors: 11 telegrams.

3. It's just good business, good sense, and good politics to cut excise taxes and replace revenue by taxing business tax-exempts. Urge you support this now: 17 telegrams.

4. Taxing the untaxed will help small business; so will excise-tax reduction. Urge you do both now: 38 telegrams.

5. I need a break. Tax my exempt competitors and use the added income to cut excise taxes: 14 telegrams.

6. We have waited long enough. For the good of the country reduce excise taxes and tax the untaxed now: 21 telegrams.

7. Miscellaneous combinations of above forms: 15 telegrams.

While there was nothing unusual or improper about this, I was curious to learn the common source, if any, of the inspiration for these appeals.

My inquiries have disclosed that the timely suggestion of the forms of these messages was made in a letter of July 29, 1949 from the National Tax Equality Association, of Chicago, as follows:

NATIONAL TAX EQUALITY ASSOCIATION,
Chicago, Ill., July 29, 1949.

To All Members and Friends:

It is almost certain that the United States Senate will vote on the question of taxing the untaxed in the next 10 days.

The vote will likely be taken in connection with excise tax reduction.

It is absolutely essential that Members of the Senate know how businessmen throughout the country feel about this subject. Therefore, will you please wire your two Senators today without fail. Western Union will handle the telegrams on the enclosed sheet without your going to the Western Union office. They have the names and addresses of your Senators. They will charge it to your telephone bill. Select the text you prefer and read it to the Western Union operator.

In addition to your wires, please call at least five of your friends, business or otherwise, and ask them to do the same thing, suggesting appropriate messages to them.

Call Western Union. Do it immediately.

Very truly yours,
G. M. LESTER,
President.

Hon. ——— ———,
United States Senator,
Senate Office Building,
Washington, D. C.:

Please phone your choice of the messages listed below, or your own wording, to both of your United States Senators—now. Western Union will furnish their names and addresses Call Western Union right now and tell them to charge it to your phone.

1. Urge your support of excise tax reduction, replacing revenue loss by taxing the untaxed.

2. Stimulate business by reducing excise taxes and taxing my untaxed business competitors.

3. It's just good business, good sense, and good politics to cut excise taxes and replace revenue by taxing business tax-exempts. Urge you support this now.

4. Taxing the untaxed will help small business—so will excise tax reduction. Urge you do both now.

5. I need a break. Tax my exempt competitors and use the added income to cut excise taxes.

6. We have waited long enough. For the good of the country reduce excise taxes and tax the untaxed now.

——— ———.

We have here a model of effective and timely, although somewhat synthetic, pressure. Whether it is regarded as in the interests of the small-business men whom NTEA

claims to represent, or the big enterprises which have recently been disclosed as among its larger contributors, the farmer and consumer cooperatives have new evidence that they are facing strong and ingenious opposition.

TENNESSEE VALLEY AUTHORITY—COMMENTS ON HOOVER COMMISSION RECOMMENDATIONS

Mr. McCLELLAN. Mr. President, I ask unanimous consent to have printed in the RECORD, at this point as a part of my remarks a statement prepared by me, including comments from the Tennessee Valley Authority on the recommendations of the Hoover Commission as they affect that agency.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR JOHN L. M'CLELLAN, CHAIRMAN SENATE COMMITTEE ON EXPENDITURES IN THE EXECUTIVE DEPARTMENTS

Senator JOHN L. MCCLELLAN, chairman of the Senate Committee on Expenditures in the Executive Departments, released today a letter from Gordon R. Clapp, Chairman of the Tennessee Valley Authority, commenting on the recommendations of the Hoover Commission which affect the TVA.

Mr. Clapp pointed out that "no administrative actions have been taken or are contemplated as a direct result of the Commission's recommendations, since none appear to be called for." The only specific recommendation which applied to the TVA was contained in the report on Federal Business Enterprises (recommendation No. 1 (e)) providing that all Government corporations include a charge for interest during construction in determining construction costs. The TVA, however, maintains that it "pays interest on bonds outstanding and makes payments to the Treasury under section 26 of the TVA Act, and under the repayment provisions of the Government Corporations Appropriation Act of 1948, out of net income derived from power operations such amounts as are necessary to authorize the Government's investment in TVA power facilities," and that this would not apply to TVA, concluding that "in view of this statutory directive that TVA, in effect, amortize the Government's investment in TVA power facilities rather than pay interest thereon, the two recommendations referred to would not appear to be applicable."

With reference to the recommendations of the Commission contained in the across-the-board reports on general management, personnel management, and budgeting and accounting, the TVA expresses general agreement with the basic recommendations, stating that the present policies of the Authority are in conformity with most of them, and pointing out that the board of directors already discharges full administrative authority recommended by the Commission, had adequate staff services, has adopted uniform nomenclature, and a performance type budget.

One specific recommendation with respect to personnel management was subject to comment by Mr. Clapp, who stated, "We believe that stimulation of research and inventiveness, along with high professional standards in personnel administration, are not emphasized as much in the report as they should be, and are more likely to achieve the results which the Commission wants than do its specific recommendations."

The full text of the letter from the chairman of the board of TVA follows:

TENNESSEE VALLEY AUTHORITY,
Knoxville, Tenn., June 27, 1949.

The Honorable JOHN L. MCCLELLAN,
Chairman, Committee on Expenditures in the Executive Departments, Senate Office Building, Washington, D. C.

DEAR SENATOR MCCLELLAN: This is in response to your letter of May 23, 1949, requesting that we furnish your committee with a report relative to the application to TVA of the recommendations and textual discussions which were included in the reports of the Commission on Organization of the Executive Branch of the Government.

As you know, the Commission recommended no changes in TVA's organizational status, and from the second paragraph of your letter I assume in any case that your committee is interested primarily in the subjects of general management, personnel management, administrative services, and budgeting and accounting.

The recommendations in the Commission's report on general management emphasizes the necessity of strengthening executive responsibility by making clear and adequate delegations of authority, holding accountable for results those to whom such authority has been delegated, and providing adequate staff services to the President and to agency heads. TVA is in full agreement with these basic recommendations, and the TVA Act of 1933 is in conformity with them. The act not only defines the board program for which TVA is responsible, but provides the TVA board of directors with adequate authority to discharge these responsibilities while at the same time holding the board fully accountable to Congress and the President for results.

We believe also that the TVA organization provides for adequate staff services. TVA maintains legal, personnel, finance, property and supply, and general management services through divisions reporting directly to the general manager. These staff organizations also advise and assist offices and divisions which have operating functions and responsibilities.

In this connection, we have noted the introduction of S. 942 and H. R. 2613, bills to establish principles and policies to govern generally the management of the executive branch of the Government. Section 202 of these bills would prescribe a uniform organizational nomenclature to be adopted by principal executive agencies so far as practicable. As you know, we have already adopted such nomenclature in part, but reached the conclusion, with which your committee concurred, that the remainder did not readily lend itself to the administration of the TVA organization. We assume this would represent adoption of the system so far as practicable in TVA's case.

Section 205 of S. 942 and H. R. 2613 would authorize appointment by the head of each principal executive agency of staff assistants in certain specified fields. We assume it is not the purpose of this section to prescribe any specific organization pattern involving a distribution of duties among staff assistants to be appointed under its provisions. In TVA's case, for example, budgeting is handled separately, from the standpoint of staff responsibility, from accounting and disbursement, and in our opinion combination of these functions would be undesirable. For a time TVA did combine budgeting and accounting functions, but experience showed that the budgeting function was more effective when directly associated with program planning within the office of the General Manager.

The Commission's recommendations with respect to personnel management contemplate changes in both personnel policies and procedures. Most of the changes recommended reflect principles which TVA has already recognized and put into practice. We believe that stimulation of research and inventiveness, along with high professional standards in personnel administration, are not emphasized as much in the report as they should be, and are more likely to achieve the results which the Commission wants than do its specific recommendations.

With respect to administrative services, the Commission's recommendations in the field of property and supply are embodied in H. R. 4754. This bill, as you know, contains a provision which preserves TVA's existing authority with respect to certain specified matters as necessitated by the nature of its operations, but directs that TVA conform as far as possible to the general policies which the bill lays down. We believe these policies are wholly sound.

The Commission's recommendations pertaining to budgeting and accounting emphasize the same management principles which TVA has consistently followed and which, in our opinion, are essential to agency responsibility and accountability. For example, TVA, since its establishment in 1933, has used the performance-type budget recommended by the Commission, along with a single system of cost accounts.

The Commission's report on Federal business enterprises recommends, in the interest of uniformity, that all Government corporations include a charge for interest during construction in determining construction costs (Recommendation No. 1–e); and that both incorporated and unincorporated Government business enterprises report specifically to Congress each year, among other matters, the extent to which earned income fails to cover interest on capital furnished by the Government. Both of these recommendations are apparently directed to situations where the enterprise involved actually makes interest payments to the Treasury. TVA pays interest on bonds outstanding and, in addition, makes payments to the Treasury under section 26 of the TVA Act, and under the repayment provisions of the Government Corporations Appropriation Act, 1948. The latter statute requires that TVA pay into the Treasury over a 40-year period, out of net income derived from power operations, amounts necessary to amortize the Government's investment in TVA power facilities. In view of this statutory directive that TVA, in effect, amortize the capital investment in its power facilities rather than pay interest thereon, the two recommendations referred to would not appear to be applicable. However, TVA's financial statements, which it transmits to Congress each year as part of its annual reports, indicate clearly both the capital investment in TVA's power program at the close of the last fiscal year, and the new power income for such year, thus making it possible by a single calculation to determine the return on power investment for the year and the extent to which it would cover a charge for interest at any assumed rate.

No administrative actions have been taken or are contemplated as a direct result of the Commission's recommendations, since none appear to be called for. Internal adjustments not related to the Commission's recommendations are of course constantly under way, as in the past, to adapt organization to program and service requirements.

Certain of our program interests may be indirectly affected by some of the recommendations relating to other Federal agencies, and we hope to have the opportunity to comment on these as specific legislative proposals are introduced to put them into effect.

If your committee wishes any additional information, we shall, of course, be glad to provide it.

Sincerely yours,

GORDON R. CLAPP,
Chairman of the Board.

LEAVES OF ABSENCE

Mr. BALDWIN asked and obtained leave to be absent from the Senate tomorrow.

Mr. REED asked and obtained consent to be absent from the Senate until Friday of next week.

DEFENSE LEGISLATION—REQUEST FOR UNANIMOUS CONSENT

Mr. TYDINGS. Mr. President, after having conferred with the leaders in the Senate, I should now like to make a very brief statement and then propound a unanimous-consent request.

Mr. LUCAS. Mr. President, I ask unanimous consent that the Senator from Maryland be permitted to do this.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. TYDINGS. I should like to call to the attention of the Members of the Senate that for some time there have been upon the calendar several bills which the Department of Defense placed in the highest priority for the defense of our country. These bills are rather far-reaching, to be frank about it, and Senators will want to have some discussion about them. But because they are important to the national defense it would, in my judgment, be a tragedy if they were not considered at this session of the Congress. Many of them are House bills on which long hearings were held, and when the measures were passed by the House similar hearings were held by the Senate committee, extending in some cases over a period of weeks.

The bills in question are: The military pay bill, the military public works bill, the 70-group air force authorization bill, the wind tunnel bill, and perhaps the military justice bill.

With respect to one of those bills, the public works bill, all the requests for public works of a military nature all over the United States, Alaska, and the Pacific islands have been carefully screened. Take the case of Alaska alone. Senators who have been there are familiar with the situation. We have equipment in Alaska which cost many million dollars. During the war this equipment was housed in temporary structures, photographs of which I shall be glad to exhibit to Members of the Senate when the bill comes up. If this equipment is allowed to remain in these dilapidated houses it will deteriorate and will be useless in time. We must have some better type of housing in places like that to protect the equipment. I mention that only as one of a great many facets of this entire subject.

I therefore ask that when the remaining appropriation bills shall have been finally acted upon in this body the bills which I have mentioned be taken up for discussion in the Senate. If the debate is confined to the bills, I do not believe that they will require a great deal of time. Senators will want to become familiar with them. They are entitled to be familiar with them in taking their position pro or con upon them. But if extraneous matters are woven in, the result will be postponement of consideration of these bills for a long time, and the postponement of other legislation in which Senators are interested. I therefore ask unanimous consent that after the appropriation bills are disposed of these bills be made the unfinished business and that debate thereon be confined to the subject matter of the bills.

The VICE PRESIDENT. The Chair reminds the Senator that in the form in which he presents the unanimous-consent request it would set aside permanently the unfinished business now before the Senate, which is the minimum-wage bill. The Senator might ask, if that bill is not disposed of at that time, that it be temporarily laid aside again for the purposes indicated.

Mr. TYDINGS. I thank the Chair, and I include his suggestion in my request.

The VICE PRESIDENT. Is there objection to the request of the Senator from Maryland?

Mr. LUCAS. Mr. President, reserving the right to object, I certainly agree with the Senator from Maryland as to the importance of all the measures to which he requests unanimous consent for consideration after the disposition of the appropriation bills. I can assure him that before this session of Congress closes we will take up those measures. I should dislike very much to get into a discussion of five measures and take 4 or 5 days on those bills. I presume I am warranted in assuming that a great length of time will be required for the discussion of them, judging the future from what has happened in the past few weeks. There is another matter which we should consider also, and that is the reciprocal trade-agreements program. We have postponed and postponed the consideration of the reciprocal trade-agreements program, which, in my judgment, is just as important as any other piece of legislation before us. Such an arrangement would have to be agreeable to the senior Senator from Georgia [Mr. GEORGE], chairman of the Committee on Finance, who has been more than kind and considerate in consenting to postponement of the reciprocal trade-agreements program for the consideration of other measures. I see that the Senator from Georgia is on his feet, and he will probably have something to say on the subject.

If we could agree upon a limitation of time on the bills referred to, and if we could get at them some afternoon for 5 or 6 hours, that would be one thing; but I dislike very much to agree to a unanimous consent request with respect to five bills when other measures of importance have been set aside from time to time.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. LUCAS. I yield.

Mr. TYDINGS. I think the observation of the Senator from Illinois is a fair one. I believe that the reciprocal trade-agreements program has probably been pending for a longer period of time than these other bills. I should like again to amend my unanimous-consent request in two particulars: First, that we take up these bills after the reciprocal trade-agreements bill has been disposed of. Second, I am willing to agree to any limitation on debate which may be reasonable, but in order to get something tentative before the Senate, I ask unanimous consent that when these military bills come up, no Senator, including the authors of the bills, shall be permitted to speak for more than half an hour on any bill, or 15 minutes on any amendment which may be offered thereto.

Mr. WHERRY and Mr. FLANDERS addressed the Chair.

Mr. WHERRY. Mr. President, does the Senator from Vermont wish to ask a question?

Mr. FLANDERS. I should like to ask several questions on this particular subject.

Mr. WHERRY. I should like to ask a question, and then I shall be glad to yield.

I should like to understand what the unanimous-consent request is. As I understand, the request has been amended to ask unanimous consent that after the appropriation bills have been disposed of certain military bills be taken up. If I recall correctly, there are four appropriation bills, the Interior bill, the armed services bill, and two deficiency bills. The second one is now before the Senate Committee on Appropriations. Does the Senator from Maryland mean all the appropriation bills?

Mr. TYDINGS. I do.

Mr. WHERRY. As I understand, the Senator from Maryland is asking that the military bills be considered after the reciprocal trade-agreements program has been disposed of.

Mr. TYDINGS. And the present unfinished business.

Mr. WHERRY. The present unfinished business, which is the minimum wage bill, would be temporarily laid aside. There is no time limit mentioned in the unanimous-consent request, is there?

Mr. TYDINGS. I should be glad to have one.

Mr. WHERRY. That request can be made later.

Mr. TYDINGS. I made the suggestion that the debate be confined to 30 minutes for each Senator on each bill, and not more than 15 minutes on any amendment. Further, I should like to see the debate confined to the subject matter of the bills.

Mr. WHERRY. Let me ask one further question. I am in favor of setting these bills down for consideration. Perhaps later we can agree upon a time limit.

One of the bills mentioned by the Senator from Maryland is Calendar No. 411, Senate bill 1536, the so-called military pay bill. I feel that if that bill is brought up for debate, the majority leader should set down for consideration following the disposition of the military bills the civilian pay bills. I think there are three of them. If we bring up the military pay bill, it seems to me that we ought to bring the others up, whether we are for them or

against them. I wonder if it would be agreeable to the distinguished majority leader to give that suggestion consideration.

Mr. LUCAS. Mr. President, I cannot go that far at this time. It seems to me that we are getting ourselves into quite an extensive program under the unanimous-consent request. I agree with the Senator from Nebraska that the pay bills ought to be considered at some time. The military pay bill, the civilian pay bill, and the classification bill are all important. If it is understood that we are to consider one after another, I wonder if there is not the possibility of an amendment being offered to the military pay bill by the distinguished Senator from Vermont [Mr. FLANDERS], who has said once or twice that he expected to offer the executive pay bill as an amendment to the military pay bill. I know exactly how he feels about the executive pay bill. I am heartily in accord with his views in regard to the executive pay bill.

Mr. WHERRY. If that suggestion were not included in the unanimous-consent request, would the distinguished majority leader say that the civilian pay bills would be called up for consideration?

Mr. LUCAS. There is no doubt that all the pay bill will be called up for consideration before Congress adjourns.

Mr. WHERRY. I mean, would they be made a special order, rather than called up by unanimous consent?

Mr. LUCAS. I would rather not go into that question.

Mr. FLANDERS. Mr. President, will the Senator yield?

Mr. LUCAS. I yield.

Mr. FLANDERS. I wish to say that I am thoroughly in accord with the endeavor to get these important military bills discussed concisely but thoroughly, and voted on and disposed of by this body.

I may say to the Senator from Maryland that I feel differently about the military pay bill than about any other bills, because I have seen the pressure built up behind that bill, and there has been evidence that it might go through the Senate with a whoop and a hurrah, although every argument for it is identical with those for the top pay bill for the administrative branch of the Government, which has languished in this body for 2 years.

I do not wish to object to the inclusion of the military pay bill, if some arrangement can be made here and now which will surely take care of it; but I certainly will wish to interpose objection to carrying this new bill through and leaving out of consideration the top executive pay bill, which carries very much less in the way of appropriations, and while has the wholehearted support of the President of the United States, and has been worked on for two sessions of the Congress.

I wish to cooperate, but I do not like to see this bill washed out in a flash flood.

Mr. LUCAS. Mr. President, I wish to assure the Senator from Vermont that the executive pay bill will be taken up in due course. Just when it will be taken up, of course I cannot say now. But I agree with the Senator that it is important, and should have been taken up before this time. However, because of some of the work behind the scenes, where the classification bill was involved and the military pay bill was involved, there was an implied threat that if the executive pay bill was brought up for consideration, there would be determined opposition on it, because these other bills were not quite ready. So I have more or less yielded to the blandishments I have heard in the corridors about the executive pay bill.

But the President of the United States is tremendously interested in the executive pay bill; and practically every Monday when we go to the White House he asks me, "When are you going to get action on the executive pay bill?"

When I see assistants to congressional committees drawing $12,000 or $15,000 for some little assignment they have on one or another of the committees, perhaps as an agent or lawyer, and then when I realize that men like Charlie Murphy, in the Legal Division, and men like Clark Clifford, and others are having a terrific struggle to live on the salaries they receive, it seems to me the Senate could do nothing less than pass the executive pay bill as soon as possible. Of course I shall bring it up, as I said a moment ago, in a short time.

Mr. LODGE. Mr. President, will the Senator yield?

Mr. LUCAS. I yield.

Mr. LODGE. I should like to say that I sense the great importance of the military bills to which the Senator from Maryland has referred; but I should like to ask whether it is proposed that these bills will displace the minimum-wage bill or whether it is proposed that we vote on the minimum-wage bill first, before we take up the other proposed legislation.

Mr. TYDINGS. Speaking for myself, if the Senate is ready to act at any time on the minimum-wage bill, which is the unfinished business, it would be my disposition not to interfere with it. But the whole purpose of my request is to try to get time for these military bills, about which I am being interrogated every day by people who are interested in the national defense, and particularly in reference to one or two of the bills, which are of more than passing importance, and, in my opinion, are in the ultimate interest of economy, although they call for the expenditure of money. For instance, some deterioration is going on in the case of about $20,000,000 worth of equipment sitting out in the open in a certain area. There is no place to put it. That is merely one of a number of examples which might be cited. I do not think a week or two more or less will change that situation.

The Senator from Maryland does not wish to hurt any proposed legislation that is pending or that is important. What he does want is to have afforded an opportunity for these important measures to be discussed.

Mr. FLANDERS. Mr. President, will the Senator yield to me again?

Mr. LUCAS. I yield.

Mr. FLANDERS. As I have said, I do not wish to be obstructive; on the contrary, I wish to be constructive; but I am wondering whether we can have something a little bit more definite in the way of an understanding in regard to the position of the top pay bill. I can conceive of two ways in which it can be handled. One is to give it at this same time a preferred position. The other is to suggest that the military pay bill, which, in my judgment, is in a somewhat different category from the three others the Senator from Maryland has mentioned, be withdrawn from the request, so that it and the top pay bill can be considered more or less on a parallel, more or less together. I suggest those as two possible arrangements to which I would interpose no objection.

Mr. TYDINGS. Only yesterday General Bradley, who has just returned from Germany, before leaving the hearing, called me aside and told me he hoped we would find time soon to act on this bill; that in going around Germany and other places where our troops are stationed, he was convinced that it is an important bill for morale purposes. I explained to him the difficulty.

I wish to say to the Senator from Vermont that if he will not press his suggestion—because he made it only as a suggestion—I will cooperate with him in every way I can to follow the consideration of this bill with his bill. Both the majority leader and the minority leader have assured me that a day will be provided for the consideration of the bill.

I should like this military program—which is more or less interwoven and has waited a long time, and deals with one particular phase of the Government's activities—to be more or less considered in one piece, if possible. I think it would help us to think it out a little more clearly.

Mr. FLANDERS. Mr. President, it strikes me that the one-piece argument is not a well considered one. The military pay bill is one piece with the top pay bill. I do not see that it is one piece with the three other bills. It can properly be considered separately from them, I believe.

So I must regretfully object if the military pay bill is included in the request.

The VICE PRESIDENT. Objection is heard.

Mr. WHERRY. Mr. President, will the Senator withhold his objection for a moment, please?

Mr. FLANDERS. Very well; I do.

Mr. WHERRY. Why would not it be feasible to comply with the request of the Senator from Maryland by setting all the military bills in one bracket, with the exception of the military pay bill, and then, secondly, take up all the pay bills, including the military pay bill, and comply with the complete unanimous-consent request that we debate these only and try to get time limits, when the time comes, and confine ourselves solely to these bills?

Mr. TYDINGS. With some reluctance, of course, I would accede to that, because all these bills are important. But naturally I respect the views of the Senator from Vermont, and naturally I

would modify my request so as to meet his views, rather than to have the whole proposal go down the drain.

Mr. WHERRY. It suits me.

Mr. FLANDERS. Mr. President, I wish to express appreciation for that statement, and to say that my position is taken with great reluctance.

Mr. TYDINGS. I understand.

Mr. President, I modify my request by excluding the military pay bill from it, but the leaders on both sides have assured me that I will have a day for the consideration of that bill.

The VICE PRESIDENT. Is there objection to the request of the Senator from Maryland?

The Chair would suggest that nothing was said in the unanimous-consent request, as proposed, about the order in which these bills will be taken up. Obviously not all of them can be taken up at once; there must be some order for their consideration.

If the request is to be agreed to, it probably should include a statement of the order in which the bills will be taken up.

Mr. TYDINGS. The order in which I announced them, Mr. President, I think should be the order, except, of course, the military pay bill, which was listed first, but which would be eliminated from the request. They would then be taken up in this order: The military public-works bill, the wind-tunnel bill, the 70-group air force authorization bill.

The VICE PRESIDENT. Are they listed by numbers?

Mr. SPARKMAN. Mr. President, will the Senator give us the calendar numbers?

Mr. TYDINGS. I will identify them.

Mr. LUCAS. May I inquire if all these measures are on the calendar?

Mr. TYDINGS. They are all on the calendar, except the military public-works bill, which is completed, which passed the House, and will be reported by the Senate committee Monday.

Mr. WHERRY. If the Senator would like to have it, I could state the order number for the wind-tunnel bill.

Mr. TYDINGS. Very well.

Mr. WHERRY. The order number for the wind-tunnel bill is 436, Senate bill 1267. That is the only one I can give.

Mr. TYDINGS. The military pay bill is on the calendar.

Mr. WHERRY. That is correct.

Mr. TYDINGS. That bill has been withdrawn from the request. But they would come up in this order: Military public works, wind tunnel, 70-group air force authorization, and military justice.

Mr. LUCAS. Mr. President, I do not see how we can agree on a military public-works bill that is not even on the calendar. It seems to me that is going quite a way in the unanimous-consent request.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. LUCAS. I yield.

Mr. TYDINGS. That bill has been completed for over a week, but because of the fact that the Armed Services Committee has been meeting with the Foreign Relations Committee, it has not been possible for us to have a meeting so we could formally report it. The chairman did not feel at liberty to have it reported by having members sign it, although the committee had tentatively gone on record as favoring it. It will be on the Calendar Monday, and it seemed to me that, while I was making the request, it would be a good idea to dispose of all the bills at one time. That is the reason the Senator from Maryland included it.

Mr. LUCAS. Mr. President, I cannot anticipate how long the debate is going to take upon the bills. I am not familiar with the military public-works bill at all; I do not know how long a debate would be required. There ought to be included in the unanimous-consent request some sort of time limitation. I should like to have the unanimous-consent request repeated, if I may. I am not sure I understand just where we are.

Mr. TYDINGS. Mr. President, I shall try to repeat it. The Senator from Maryland asks unanimous consent that, at the conclusion of the consideration of the appropriation bills, the unfinished business on the calendar, and the reciprocal trade bill, the Senate shall proceed to the consideration of the military public-works bill, the wind-tunnel bill, the 70-group air force bill, and the military justice bill; that the debate be confined to the subject matter of these bills; that no amendments be offered which are not germane; and that the debate be limited to 30 minutes on each bill, with 15 minutes on each amendment thereto, in the interest of saving time.

Mr. DONNELL. Mr. President, will the Senator yield?

Mr. TYDINGS. I yield to the Senator.

Mr. DONNELL. I am not at all informed as to these bills and I missed a considerable part of the discussion. There is one portion of the unanimous-consent agreement which attracted my attention. That is the portion of it to the effect that the debate shall be confined to the subject matter. I can readily appreciate the commendable thought of the Senator, but I am wondering who is going to pass on that.

Mr. TYDINGS. The Chair.

Mr. DONNELL. I am wondering whether that is going to give the Chair the power, or whether we have precedents in the Senate for such an agreement as that. If the Senator will indulge me for a moment, I am inclined to feel that that matter should be left to the judgment of the Members of the Senate, rather than leaving it to the Presiding Officer, with all due deference to the Presiding Officer.

Mr. TYDINGS. I withdraw that part of my unanimous-consent request. It was made in the interest of saving time.

Mr. LUCAS. Mr. President, we have before us about four appropriation bills, and if we take as much time on the Interior Department appropriation bill and on the military appropriation bill, as we have taken on some of the other appropriation bills, we shall be around here a couple of weeks on those bills alone. The minimum-wage bill, which is the unfinished business and which has been temporarily laid aside, will take probably 3 or 4 days. The reciprocal trade-agreements program will probably take 2 weeks. So, the way it looks to me, we are now making a unanimous-consent agreement to do something which is to happen about 1 month from now. Certainly it seems to me to be perhaps a little premature for such a unanimous-consent agreement, affecting these important matters, as that requested by the Senator from Maryland. I am sure we are going to get all these measures up for consideration, but it is a little unusual to have a unanimous-consent agreement of the kind proposed when these other important measures are in front of us. I do not like to object, but I merely call attention to what we are proposing to do by way of a unanimous-consent agreement. In the final analysis it might be well to have it, because we would be getting a limitation on time with respect to these bills. But I call the Senate's attention to what we are up against.

Mr. KEM. Mr. President, reserving the right to object, I should like to ask the majority leader whether his present plans contemplate the ending of the present session at any date within the near future? I should like to say that, as the Senator from Illinois knows, many of the Members have engagements made sometime ago, connected with the discharge of their official duties, during the month of September, and many of us hope it will be possible for us to fill those engagements. If the Senator could give us some indication as to what he plans in that respect, I think it will be very helpful to many of the Members.

Mr. LUCAS. I certainly hope the Senator from Missouri and other Senators will not have to forego any obligations they have undertaken for the month of September, but it is a little difficult for the Senator from Illinois to say just when the Congress will adjourn. I am satisfied the Senator from Missouri probably has almost as good a notion about what legislation is on the calendar as has the Senator from Illinois, and of the importance of that legislation. The Senator can well understand from the colloquy which has taken place this morning about these bills how important they are. The Senator from Maryland is absolutely correct as to their importance. We feel that the reciprocal trade-agreements bill, the minimum-wage bill, and the appropriation bills are all important, as are also certain other bills. I wish I could name a definite date to my good friend from Missouri, so he could make his plans accordingly, but I fear I cannot do so.

Mr. KEM. Mr. President, will the Senator yield further?

The VICE PRESIDENT. Does the Senator from Illinois yield to the Senator from Missouri?

Mr. LUCAS. I am glad to yield.

Mr. KEM. I should like to ask the Senator whether he feels the Members should be asked to enter into a unanimous-consent agreement to a program or legislative schedule which may carry the session into the indefinite future, and whether it is not a fair and reasonable

request of the majority leader, in whose hands the matter rests, to ask him to indicate to the Senate about how long the present session will last, if Members accede to the unanimous-consent request now being considered? I certainly do not want to ask anything unreasonable, but it seems to me we are entitled to look ahead and make our plans with some reasonable degree of certainty.

Mr. LUCAS. The Senator from Missouri is not making an unreasonable request at all, and I wish I were in a position to accommodate the Senator by advising him as to the date final adjournment might take place. But the Senator well knows that as a result of our current position and our leadership in the world; with all the problems that are involved, we are in a much different position today, perhaps, so far as legislation is concerned, from any we have ever been in heretofore. There was a time when Senators and Members of the House of Representatives came to the capital, organized, taking their time in doing it, passed a few appropriation bills, debated the tariff for 2 or 3 weeks, and went home. But that cannot be done any more, Mr. President. Those days are gone forever. There are a host of important problems before us, and the length of the debates upon certain measures indicates the tremendous importance of the problems involved in our economic, social, and political life.

The Senator from Illinois would certainly like to have Congress adjourn as quickly as would any other Senator. This is the first summer I have missed going to Wisconsin for a few weeks to enjoy the cool breezes there. I should like to be there now. But I have a duty to perform as majority leader and as a Member of the United States Senate, and, considering all the legislation which is on the calendar, I cannot suggest any definite date.

The remarks made by my distinguished friend from Maryland regarding persons who are urging action with respect to particular measures suggest to me the thought that he should be the majority leader for a while and see how people urge action on their own particular pet measures. There is not a day when there is not a committee of constituents or individuals calling upon the Senator from Illinois urging him to have a particular measure considered. I am being somewhat criticized by groups here and there for not being able to have prompt action taken on certain measures. I have received more letters regarding the oleomargarine bill, in which the Senator from Arkansas [Mr. FULBRIGHT] is deeply interested, than about any other piece of legislation. The Scripps-Howard newspapers published some editorials regarding oleomargarine, which were very complimentary to the Senator from Illinois, but in conclusion they said, "It is up to Senator LUCAS. He can bring that bill out if he wants to." Senators should see the number of oleomargarine sponsors in this country urging that that bill be acted on.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. LUCAS. I yield.

Mr. AIKEN. Has the Senator heard the reports and rumors that certain interests are offering prizes to those who can get the most people to write to Members of Congress with regard to the oleomargarine bill? I think that might have something to do with the volume of mail we are receiving.

Mr. LUCAS. It could be, assuming those reports are true.

Mr. MORSE. Mr. President, will the Senator yield?

Mr. LUCAS. I yield.

Mr. MORSE. I should like to say that I have reconciled myself to what I think is the inevitable fact that Congress is going to be here at least until November 1, because I do not think, in the absence of some agreement to take up a fixed schedule of business, there is any possible chance of getting away before that time. Therefore I wish to express the hope to the Senator from Illinois that possibly we can get a "gentlemen's understanding." I should like to suggest to the majority leader that he give very careful consideration to the advisability of setting aside a period of time around Labor Day, say Labor Day week, wherein meetings of the Senate will be pretty much token meetings, because I surmise that on both sides of the aisle at least half of us will have some very important speaking engagements during that week in order to discuss what we think should be the policy of this country with respect to labor legislation. I do not think I need to say anything more as to the nature of those speeches, so far as the junior Senator from Oregon is concerned, because I have not given up hope that within my party we shall come around to what I consider to be the type of legislation that should be the policy of my party.

Mr. LUCAS. I am sure the Senator is correct in his last conclusion.

Mr. MORSE. I am very serious when I say to the Senator from Illinois that I think we should take into account the matter of convenience of the Members of this body. I think great public good can be served by the discussions to be held on labor legislation during Labor Day week, and I wonder if we cannot work out a gentlemen's understanding that those of us who absent ourselves from the Senate during that week shall not be confronted, on coming back, with the fact that the Senate has taken action on major legislation.

Mr. LUCAS. I think something possibly can be worked out, if we are in session at that time, as we probably shall be.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. LUCAS. I yield.

Mr. TAFT. Mr. President, I take it that the unanimous-consent request of the distinguished Senator from Maryland does not in any way modify the agreement heretofore reached regarding Reorganizations Plans Nos. 1 and 2 which are to be discussed next Tuesday and Wednesday.

Mr. LUCAS. No. They are of the highest privilege.

Mr. TAFT. Do I correctly understand, also, that at the time, say a month from now, the military assistance program is ready for the Senate, that will also be set aside in favor of these other bills? If so, I should be much more favorable to the Senator's request and to similar requests made regarding other types of legislation which we are seeking to have passed.

Mr. TYDINGS. If that should happen, the Senator from Maryland would himself ask that unanimous consent be granted to take up the arms implementation plan.

Mr. LUCAS. There may be a few deadlines we shall have to meet in connection with certain legislation expiring.

Mr. DONNELL. Mr. President, will the Senator yield?

Mr. LUCAS. I yield to the Senator from Missouri.

Mr. DONNELL. Mr. President, again referring to the unanimous-consent agreement sought by the Senator from Maryland, I was not aware, when I made mention a few moments ago of the question of germaneness to the discussion, of the fact that there was also included in the proposal a provision to the effect that each amendment to be offered should be germane to the bill.

Mr. TYDINGS. The Senator from Maryland put that in, as the Senator from Missouri can well guess, to allay the fears of certain Senators that matters would be attached which they would want to talk about at considerable length, and the Senator from Maryland, to allay their fears, added that suggestion to his unanimous-consent proposal.

Mr. DONNELL. I very respectfully suggest that, while I appreciate the point which has been mentioned by the Senator from Maryland, it is quite unusual to attach conditions as to the type of amendments to be offered. While I know of no Senator who intends to propose or present any amendment not germane to the subject of these bills—I do not know about the bills or the intentions of Senators—I respectfully suggest that that portion of the unanimous-consent request be withdrawn.

Mr. TYDINGS. Let me say to the Senator from Missouri, whose inquiry is thoroughly understood and with whose philosophy I am in accord, that there have been attempts in the past to take advantage, let us say, for want of a better expression, of the situation to offer an amendment. Neither the Senator from Maryland nor the Senator from Missouri wishes to put any Senator at a disadvantage, and my suggestion was rather as a protection of Senators than as a restraint of their liberty.

Mr. DONNELL. As I understand, it is planned to limit the debate on each measure to 30 minutes on each side, and 15 minutes on each amendment.

Mr. TYDINGS. That is correct.

Mr. DONNELL. I do not think any great protraction of the debate could result if some Senator were to offer some nongermane amendments, if there were a limitation of 15 minutes on each of them.

Mr. TYDINGS. But if there were an antisegregation amendment offered to some phase of the military bills the Senator from Maryland would feel that there would be no chance of getting the bills

through, because the Senator who offered the amendment would evoke opposition. Therefore, if I asked Senators to go along on a limitation of time, naturally they would not want to forego their right to discuss something outside the general purview of the bill under consideration. Otherwise they would be giving hostages to fortune.

Mr. DONNELL. As a matter of fact, each Member of the Senate could offer any amendment he wanted to offer and would have the right to debate it for the period prescribed. I do not see the necessity for putting in that provision, and I would be constrained to object to the unanimous-consent agreement; that is, the portion of it which provides that an amendment must be germane to the bill.

Mr. RUSSELL. Mr. President, will the Senator yield?

Mr. LUCAS. I yield to the Senator from Georgia.

Mr. RUSSELL. Mr. President, I merely wish to remind the distinguished Senator from Missouri that there were no unanimous-consent requests as to limitation of debate agreed to in the second session of the Eightieth Congress unless a similar provision was in the unanimous-consent request.

Mr. TYDINGS. That is correct.

Mr. RUSSELL. I am sure the distinguished minority leader, who was the majority leader in the Eightieth Congress, will substantiate the statement that each time a unanimous-consent request was entered into for limitation of debate in the second session of the Eightieth Congress this proviso was in it, and it in nowise hampered the Senate in arriving at a termination of the bills. It expedited the business of the Senate very greatly. Theer is nothing new in the proviso. It has been in any number of unanimous-consent agreements.

Mr. WHERRY. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. WHERRY. I know the distinguished Senator from Maryland has restated over and over again his proposed unanimous-consent request, but now other Senators are asking questions who apparently were not in the Chamber when the Senator made his request. I wonder if it cannot be restated so that every Senator who is now on the floor may know what was in it, and if they have objections, they can be made.

Mr. KEM. Mr. President, will the Senator from Maryland yield for a question?

Mr. TYDINGS. I yield.

Mr. KEM. I should like to ask the Senator from Maryland if he can give the Senate any estimate as to the time which will be taken up with the proposed program, so that we may know ahead of time what we are agreeing to.

Mr. TYDINGS. I would assume that if the unanimous-consent request is granted as stated, one day would probably be sufficient to dispose of the bills, and certainly not more than 2 days. Of course, if there is not some limitation, any Member of the Senate can rise and talk about why Maryland should be north of its present location. But I am assuming that if we enter into this agreement in good faith, as we will if we do enter into it, we can dispose of most of these bills in a day. What the Senate wants is an explanation of what is involved in the bills, and why they are important. I believe we are in position to give that information to the Senate concisely, and I believe that many of the questions which will arise in Senators' minds will quickly be answered, and we will arrive at a conclusion so that we can dispose of the bills.

Mr. KEM. As I understand, there are four bills.

Mr. TYDINGS. There are four bills.

Mr. KEM. So there would be 4 days.

Mr. TYDINGS. Oh, no. For instance, the wind-tunnel bill is one for which a very simple explanation will suffice. Practically all the elements can be described in half an hour, and Senators would know immediately whether they wanted to vote for the bill or not.

Let me give the Senator from Missouri one little thought about this bill, of which the Committee on Armed Services already is aware, but with which other Senators are not familiar. We have now developed planes, as have other countries, which fly faster than sound. We do not have wind tunnels in which we can test the models of planes which soon will pass the speed of a thousand miles an hour. Therefore, if we send up these planes which fly faster than sound, we do so without knowing what their performance will be. So we need wind tunnels, particularly the large supersonic wind tunnels, so that models of these planes, exact replicas in every sense of the word, can be put into them and subjected to all the wind currents, to see how they react. Through those experiments, costly and vital mistakes are eliminated.

The Air Force has been after me continually to get this bill through, so that they can save millions of dollars and hours of time, because the race is on, and we do not want to build the planes and take them up in the sky and have our crack test pilots killed flying them, when we might overcome the "bugs" in the wind tunnels. That is something that is perfectly plain.

The bill has been on the calendar 2 or 3 months, and every time it comes up there is objection to it. I think we may inadvertently, in the best faith, but by taking too constrained a view, send many men to their death through the delay in acting on this bill. Such a catastrophe, to say nothing of the financial outlay involved in the construction of planes, may be avoided by the passage of the bill.

It will take from 2 to 3 years to build one of these big wind tunnels. The international race in the supersonic field is on. We are delaying. That is why the Senator from Maryland is here today pleading for an opportunity for the consideration of these bills. He is cognizant of the fact that other Senators have bills in which they are interested, but these bills mean life and they mean money. We are living in an age that has baffled the imagination of all of us. Our oceans are no longer barriers. We have the intercontinental bombing plane; we have guided missiles; we have atomic bombs. The race for survival is on; time is important; and the Senator from Maryland is pleading, and I believe soundly pleading, for a chance that his country, in the great Armageddon that could come, may come out on top, and survive, and not lose the race through dilatory tactics, however well-meant they may be.

Mr. LUCAS. Mr. President——

The VICE PRESIDENT. Does the Senator from Maryland yield to the Senator from Illinois?

Mr. LUCAS. Mr. President, I have not relinquished the floor. I am certain we could pass the wind-tunnel bill now after the eloquent speech to which we have just listened.

Mr. TYDINGS. I believe we could.

Mr. THYE. Mr. President, will the Senator from Illinois yield?

Mr. LUCAS. I yield to the Senator from Minnesota.

Mr. THYE. I should like to concur with the majority leader. This is the third time I have heard the wind-tunnel bill explained in the Senate, and the majority leader is absolutely correct, that now is the time to act upon the bill. We have had the explanation, we have a quorum, and we could expedite the business of the Senate by moving at this moment to act upon this measure.

Mr. JOHNSON of Texas. Mr. President, will the Senator from Illinois yield?

Mr. LUCAS. I yield to the Senator from Texas.

Mr. JOHNSON of Texas. I wish to ask the Senator from Maryland if it is not a fact that the wind-tunnel bill, after exhaustive hearings, was reported unanimously by the subcommittee and reported unanimously by the full committee.

Mr. TYDINGS. To answer the Senator briefly, he is correct; and one of the things that has baffled the Senator from Maryland is the delay, when the members of the Armed Services Committee, on both sides of the aisle, joined in reporting the bill, and some of the outstanding Members of the Senate are on that committee. I shall mention those on the other side of the Senate. They are the Senator from Massachusetts [Mr. SALTONSTALL], the Senator from New Hampshire [Mr. BRIDGES], the Senator from South Dakota [Mr. GURNEY], who was the chairman of the committee in the Eightieth Congress, the Senator from Oregon [Mr. MORSE], the Senator from California [Mr. KNOWLAND], and the Senator from Connecticut [Mr. BALDWIN]. When they come here, having heard a great deal of testimony in secret, behind closed doors, with a unanimous report, and with a report written up fully, and on the calendar, explaining the bill, the Senator from Maryland is at a loss to know why there is so much doubt about it, when every member of the committee, both Democratic and Republican, has enthusiastically supported the bill.

Mr. LUCAS. Mr. President, is there any Senator on the floor who would object if I moved to temporarily lay aside the pending business and take up the wind-tunnel bill?

Mr. LANGER. Yes, I would object.

Mr. WHERRY. Mr. President, will not the Vice President please have the unanimous-consent request stated again? I believe some of the matters in connection with it have been cleared up.

The VICE PRESIDENT. As the Chair understands, the Senator from Maryland is requesting unanimous consent that following the disposition of the pending motion, the unfinished business, the appropriation bills, and the reciprocal trade-agreements bill, the four bills to which he has referred, in the order mentioned, be taken up for consideration; that debate be limited to 30 minutes on the part of any Senator on the bill and 15 minutes on any amendment. The Chair thinks that is all. The Senator withdrew the portion of the agreement with regard to germaneness of amendments.

Mr. SPARKMAN. Mr. President, will the Senator from Illinois yield?

Mr. LUCAS. I yield to the Senator from Alabama.

Mr. SPARKMAN. I am in complete sympathy with the unanimous-consent request which has been made, but in connection with what the Vice President has said, I should like to ask whether the effect of the proposed agreement would not be to arrange a schedule which would become unchangeable except by a later unanimous-consent agreement. My reason for asking the question is that the Senate Committee on Banking and Currency today is reporting a housing bill, to provide for the continuance and the extension, in some respects, of the present Federal Housing Act, and other features which have been asked for by the housing agency. I call attention to the fact that the FHA authority under title 1 and title 6 will expire on the last day of this month. It seems to me that if this agreement does set a fixed schedule of legislation, we may be caught in a jam in getting some measure considered by the Senate which we may have to have considered before the time indicated.

Mr. LUCAS. With respect to deadlines we have to meet, it would be necessary to secure unanimous consent to lay everything aside to consider legislation that had a deadline, and which we thought was important enough to pass.

The VICE PRESIDENT. The Chair would like to ask the Senator from Maryland—because if the proposed agreement is entered into the Chair will have to try to apply it—whether it would preclude the possibility of any unanimous consent to take up temporarily any other bill pending the consideration of the measures to which he has referred, namely, the reciprocal trade-agreements bill, the minimum-wage bill, which is now the unfinished business, and other legislation which he supposes will be concluded before his program is taken up? Would the agreement make it impossible to set aside temporarily any of the bills which come up ahead of the program suggested by the Senator from Maryland, so that other legislation might be passed?

Mr. TYDINGS. There was no disposition on the part of the Senator from Maryland to preclude any future unanimous-consent request to take up any important measure.

Mr. ROBERTSON. Mr. President, will the Senator yield?

Mr. LUCAS. I yield.

Mr. ROBERTSON. Is it not a fact that if through wrangling and unnecessary discussion of minor matters we fail to act on the essential bills that we know should be passed and expect to pass, we may well be here until next November.

Mr. LUCAS. That is possible.

Mr. ROBERTSON. Is it possible, that if through consideration and cooperation we agree to restrict our constitutional rights to unlimited debate on certain measures we might be able to get out of here by Labor Day?

Mr. LUCAS. Anything is possible, I will say to the Senator from Virginia.

Mr. ROBERTSON. Is it not probable? Did not the distinguished majority leader as late as 2 or 3 weeks ago say that we would get away from here by Labor Day?

Mr. LUCAS. I had hoped that we would get away by Labor Day, but as the session lingered longer I practically abandoned all hope of Congress adjourning by that time. The debate which has taken place today is quite a good indication that Congress cannot get away by Labor Day.

Mr. ROBERTSON. Is it not a fact that there are Members of the Senate who have not abandoned hope of getting away from here by Labor Day; and is it not a further fact that the House has been insistent on such a program?

Mr. LUCAS. I cannot tell the Senator about the House, and what it has proposed along that line.

Mr. ROBERTSON. The reports carried in the newspapers indicate that the House is not going to have any committee meetings after this week; that it is going on a 3-day-a-week schedule, or a schedule of curtailed production of some kind, and that the House is looking to the Senate to finish its work on the essential bills. I want to urge the distinguished majority leader to do what he can to lead us to that objective. Ninety or more percent of the Members of the Senate think we can and should finish the business of the Senate by Labor Day.

Mr. LUCAS. We can only go as fast as the opposition will permit, I will say to the Senator from Virginia.

Mr. ROBERTSON. I am not in opposition.

Mr. LUCAS. A moment ago I endeavored to secure a unanimous-consent agreement with respect to taking up the windfall measure. I misspoke, Mr. President. I meant to say the wind-tunnel measure; but it would have been a windfall had we obtained an agreement to take up that bill.

Mr. ROBERTSON. I think we are facing a very serious problem in the eyes of the Nation, as to whether we are going to legislate in a constructive way.

The VICE PRESIDENT. Is there objection to the unanimous-consent request?

Mr. MAYBANK. Mr. President, I ask for the regular order.

The VICE PRESIDENT. The regular order has been demanded. The regular order is: Is there objection to the unanimous-consent request?

Mr. DONNELL. Mr. President, will the Senator yield?

The VICE PRESIDENT. The Senator from Illinois cannot yield. The regular order has been requested.

Mr. DONNELL. Let me make a parliamentary inquiry then, Mr. President.

The VICE PRESIDENT. The Senator will state it.

Mr. DONNELL. The Chair stated the unanimous-consent request somewhat differently than I understood the Senator from Maryland to have intended it. It is my suggestion that the way the Chair stated the request it would appear that the Senator from Maryland had withdrawn the point with respect to germaneness.

Mr. TYDINGS. Mr. President, I could not withdraw it, because I would then meet the objection of some 15 or 20 of my colleagues who think that point should be included in the unanimous-consent agreement, as it was in the Eightieth Congress.

The VICE PRESIDENT. The Chair evidently misstated the request. The Chair thought the Senator from Maryland had withdrawn that portion of it.

Mr. O'MAHONEY. Mr. President——

The VICE PRESIDENT. The Chair will again state the request. It is that following the disposition of the pending motion and the appropriation bills, of which there are apparently four, the minimum-wage bill and the reciprocal trade legislation, the four bills, in the order mentioned by the Senator from Maryland, be taken up for consideration.

Mr. MAYBANK. Mr. President——

The VICE PRESIDENT. Just a moment. Permit the Chair to conclude. And that debate be limited to 30 minutes to each Senator on each of the bills, and 15 minutes on each amendment; that no amendments shall be offered that are not germane to the respective bills.

Is that the correct statement of the request? The Chair believes it is.

The question is: Is there objection to the unanimous-consent request?

Mr. O'MAHONEY. Mr. President——

Mr. MAYBANK. Mr. President——

The VICE PRESIDENT. The regular order has been demanded, and after such demand has been made debate is not in order. Is there objection to the unanimous-consent request?

Mr. O'MAHONEY. I object.

The VICE PRESIDENT. Objection is heard.

Mr. LUCAS. Mr. President, I hope Senators will remain, because I am going to make another unanimous-consent request in a moment.

DELIVERED PRICE SYSTEMS AND FREIGHT-ABSORPTION PRACTICES

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Louisiana [Mr. LONG] to reconsider the vote by which the motion of the Senator from Nevada [Mr. MCCARRAN] to send Senate bill 1008 to conference was agreed to.

Mr. LUCAS. Mr. President, I ask unanimous consent that not later than the hour of 5 o'clock p. m. the Senate proceed to vote without further debate upon the motion of the Senator from Louisiana [Mr. LONG] to reconsider the

vote by which Senate bill 1008, the so-called basing-point bill, was sent to conference, and in the event such motion to reconsider is agreed to, then also without further debate upon the motion of the Senator from Nevada [Mr. McCARRAN] to send the bill to conference, or upon any other motion having precedence over such motion, which may be made in connection with the House amendments.

The VICE PRESIDENT. Is there objection to the request of the Senator from Illinois?

Mr. KEFAUVER. Mr. President, will the Senator yield?

Mr. LUCAS. I yield.

Mr. KEFAUVER. I wish the Senator would not present the request at this time. The Senator from Oregon [Mr. MORSE] wishes to speak, as does the Senator from Alabama [Mr. HILL]. Other Senators may wish to speak.

Mr. WHERRY. Mr. President, reserving the right to object, I do not want to object. I have already consulted the Senator from Oregon, and I am quite satisfied that it is agreeable to him to enter into this unanimous-consent agreement. I hope we can get a vote on this question, and that Senators will cooperate with the majority leader.

Mr. LUCAS. I thank the Senator from Nebraska. Can I get cooperation from my own side?

Mr. O'CONOR. Mr. President, reserving the right to object, I will say to the majority leader that the suggestion is entirely satisfactory to members of the Judiciary Committee. We feel confident that the arrangement suggested will afford us ample time to have any discussions necessary.

The VICE PRESIDENT. Is there objection to the request of the Senator from Illinois?

Mr. KEFAUVER. Mr. President, reserving the right to object, as I understand the request, in the event the motion of the Senator from Louisiana to reconsider is agreed to, then there can be no further debate on the motion to concur in the House amendments, or any other motion following the adoption of the motion to reconsider?

Mr. LUCAS. If the motion to reconsider is agreed to, as I understand, that leaves the subject wide open.

Mr. KEFAUVER. There was some limitation in the request.

Mr. LUCAS. There are two or three other things that can be done under the parliamentary situation, as I understand it, if the motion to reconsider is agreed to. The unanimous-consent request was to vote without further debate upon the motion of the Senator from Nevada [Mr. McCARRAN] to send the bill to conference, or upon any other motion having precedence over such motion which may be made in connection with the House amendments.

As I understand from the Parliamentarian, there are two motions that can be made.

The VICE PRESIDENT. There are three motions that can be made. One is to send the bill to conference; the second is to concur in the House amendments; and the third is to amend the House amendments. Any one of the three motions can be made.

Mr. KEFAUVER. Does the Senator ask in this request that there be no debate on those motions?

Mr. LUCAS. Yes. I am asking that a vote be had on the motion to reconsider and all other possible motions not later than 5 o'clock.

The VICE PRESIDENT. The Chair would interpret the agreement to prohibit further debate on other motions or proceedings after the motion to reconsider is adopted. That is the way the Chair understands it.

Mr. LONG. Mr. President, I must object. It is entirely possible that we shall be through debating this question by 5 o'clock. I have no desire to hold up the program which the majority leader has in mind. I certainly hope that we can arrive at some agreement. Personally, I should be happy to postpone the matter to a day certain. Any day which might be suggested would be agreeable to me.

The VICE PRESIDENT. Is there objection to the request of the Senator from Illinois?

Mr. LONG. I object.

The VICE PRESIDENT. Objection is heard.

The question is on agreeing to the motion of the Senator from Louisiana [Mr. LONG] to reconsider the vote by which the motion of the Senator from Nevada [Mr. McCARRAN] to send Senate bill 1008 to conference was agreed to.

LIMITATIONS ON NATIONAL POLICY

Mr. FLANDERS. Mr. President, I am aware of the length of time we consume in discussing various subjects, but I am exceedingly anxious to offer some observations which will require not more than half an hour, with regard to appropriation bills, not at the time when the appropriation bills are before the Senate, but in advance of taking them up.

For some time it has seemed to me that there are certain overriding considerations dealing with the problems of our Government which we should see as clearly as possible. If these overriding considerations exist and if we can see them clearly, I am sure that they will be major factors in determining the legislation which we consider and pass on this floor. With these thoughts in mind, I was moved to reread one of the letters recently sent out by the Whaley-Eaton Service with which I am sure all Senators are familiar. The particular letter referred to is No. 1609, dated July 2. Since there is a notation on the letter to the effect that "quotations from this letter are permitted only by special authorization," I asked for and obtained permission to read as much of this material into the RECORD as I cared to do. I am therefore going to proceed in accordance with this permission, reading most of the letter and interspersing my own comments from time to time.

It has long been recognized that a normal business cannot prosper if it pays more than 6 percent for its borrowed money, and it is only because some special and extraordinary influences come into play that business can apparently and temporarily prosper under tax levies, corporate and personal, so high that they absorb over 25 percent of the entire estimated national income.

Mr. President, let me at this point call attention to the fact that our total Federal, State, and local government expenditures are approaching 30 percent of the entire income of this great and prosperous Nation. The resulting high rate of taxation of these combined governments decreases the purchases, consumption, and enjoyment of individuals. They decrease the available amount and the incentive which leads savers of money to invest it in the expansion of production and employment. These governmental demands—to put it briefly—include strong elements which restrain production, consumption, and employment, divert resources into unproductive channels, and in the final summing up, put such heavy brakes on our economy that we tend to grind along in the status quo instead of expanding to higher levels of output and consumption.

Some Senators may be interested in studies of the effects of high taxation which have been made by various authorities. Examples of these are a study by Arthur Smithies in A Survey of Contemporary Economics, a book edited by Howard S. Ellis and published in 1948, and Colin Clark's article, Public Finance and Changes in the Value of Money, published in the December 1945 Economic Journal.

But, it does not need highly technical research to convince us of the dangers of high taxation to a free economy, particularly as to its effect in holding down expansion and any resulting improvement in the standard of living of its citizens as a whole. I now continue reading the letter:

Our foreign letter of December 31, 1935, said: "Armament carries with it a relative necessity for the use of managed currencies. * * * So, in the countries accustomed to paper money, wages in armament work can be paid for by note issues. Thus, all over the world, there is a concealed confiscation of private capital, through note issues or credit operations. There is some compensatory relief (fewer unemployed) but the cost will be met ultimately by depreciation in the currencies. A general European war, for instance, might readily cut the gold value of sterling in half. There is not a nation in Europe that can afford to go to war."

The war in fact did devastate the capitalistic system of Europe (that system has always been a very different thing from the capitalism developed in America) and the adoption of socialistic institutions as a substitute has furthered the dissolution. There has been, and is, not merely a scarcity of dollars in the adventurous nations, but an even more obstructive scarcity of any currency in which men of prudence could have confidence. A flight of capital to the Americas had begun even before the war, not because its new habitat was safe, but because it was, and is, safer than was its original domicile.

The debates in Congress have shown clearly what is happening here. Every legal limitation to political profligacy has been removed and the wealth of the Nation, whether in personal hands or not, is squeezed from a cornucopia that is supposedly inexhaustible. The gold standard, when it existed, was an automatic check. There was another check, perhaps even more compelling, and it was that the Government, if overspending, had to appeal to the people to buy its bonds. The market for such issues showed with utter realism whether or not the Nation's finances were being soundly handled.

There is no such restraint now. The Government is empowered to, and does, force its paper into the banks. True, there is a congressional declaration placing a top of $275,000,000,000 for the public debt. But it is meaningless since it has been changed before and can be again.

Mr. President, the problems outlined in the paragraphs I have just read call for the establishment of a monetary subcommittee of the Joint Committee on the Economic Report which is now being organized. Few people realize the precarious balance of our whole monetary system. It is like that of a man who is trying to carry his wife and family in a wheelbarrow on a tight rope across Niagara Falls, as compared with the normal practice of riding comfortably and safely with them in a railroad train on a solid and steady bridge. I can hope that the monetary investigation will do more than show up our precarious balance. I hope it will result in the development of some means for giving a degree of self-correction to a monetary system which lacks it completely as things are now. I now return to the letter:

It is now the obvious intent of the Government to resort in the near future to what it calls "deficit financing;" there is, the experts say, no practical alternative. The term "deficit financing" is one of those weasel concoctions devised by the modern art of semantics to clothe depravity with the habiliments of respectability.

Mr. President, a little later I shall wish to divest myself from full concurrence with this part of the letter.

I read further:

Better call a spade a spade and tell the public frankly that it is proposed to pile upon the burden of confiscatory taxation an additional weight of concealed expropriation through seizure of property by further dilution of the dollar's value. This is the equivalent of legalized theft.

Mr. President, I doubt that anyone on this floor foresaw that we would resort to deficit financing in this postwar period, except under conditions of developing depression. Certainly had any one of us been told the rate of national income which we are enjoying at the present time, he could not have conceived of our inability or unwillingness to balance the budget under current conditions. Now the letter again:

Why cannot the most prosperous nation civilization has ever known pay its way? What is it that has driven the annual cost of the Federal Government alone from about $4,000,000,000 a year 2 decades ago to more than $40,000,000,000? War and welfare. The strange theory is evolved that, since everybody has worked at high wages in time of war, there can be no good reason not to have an equivalent condition in time of peace. Have we no planners? There is no need for any. War is supreme waste, but its effects can be approximated by deliberate policy—just throw all excess production into the oceans and then use Government credit to augment that production so that there will be more to throw away. Or put premiums on unemployment. For "sweat of the brow" substitute the leisure of subsidized purchasing power.

But the war does not end. It becomes "cold," and is financed with hot money. So, the two main courses of the "free peoples" are in channels that Stalin himself might have devised: Let them go broke with war and welfare.

Mr. President, Stalin is doing very well right here in America. We smell out and track down the Communists, but that is not where our real danger lies. Our real danger internally lies in fiscal and economic chaos, which may become so severe that Communists are generated far faster than prisons can be built in which to confine them or ships can be built in which to deport them. More than once on this floor I have expressed my dismay at the way in which the expenditure of mere millions by the U. S. S. R. in this cold war seems to demand that we spend billions. One percent of the thought and energy which has gone into multibillion military defense would surely equip us to carry multimillion dollar offense against the enemy where his forces are presently deployed—in the minds and hearts of men. We are outplayed. We are outfoxed.

Mr. President, at this point, I ask unanimous consent to have printed at the conclusion of my remarks the editorial from the United States News of August 5, entitled "The Start of World War III."

The PRESIDING OFFICER (Mr. O'CONOR in the chair). Without objection, it is so ordered.

(See exhibit A.)

Mr. FLANDERS. Mr. President, I do this because the editor is one of the few intelligent commenators in this country who has not bowed the knee to this idol of the new Maginot line—the massive and extravagant military defense. He wants to turn the enemy's flank, instead of having him turn ours.

I now read again from the Whaley-Eaton letter:

All of the foregoing is well understood by thoughtful men in and outside Congress, and abroad. But they do not know what to do. The cry in Europe is "Our regimes will fall unless we continue the deception of welfare" and, in this country, the claim is made that it is political suicide to fight against the tide. Wednesday, on the critical vote, the proponents of economy lost by only 5 votes (209 to 204) in their fight to eliminate the public-housing feature (costing $308,000,000 a year for 40 years) from the housing bill. There is a formidable bipartisan group that stands for reasonable economy.

Yet TAFT himself had favored the housing bill in the Senate and otherwise the public-housing feature might well have failed in the House.

Mr. DOUGLAS. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. TAYLOR in the chair). Does the Senator from Vermont yield to the Senator from Illinois?

Mr. FLANDERS. I yield.

Mr. DOUGLAS. Is it not also true that the very able and estimable junior Senator from Vermont was extremely effective in getting the public housing bill through the Senate?

Mr. FLANDERS. I accept, sir, the complimentary and congratulatory suggestion of the Senator from Illinois; and if he will be patient for a few minutes, he will hear the dilemma resolved.

Mr. President, I quote further from the letter:

Moreover, Dewey, defeated for the Presidency, declares that the welfare state, to an extent, commands such popular support that it cannot be denied.

With respect to these comments, Mr. President, I cannot speak for the senior Senator from Ohio. I can speak only for myself, and on these matters I have voted with the senior Senator from Ohio. I am for a free country and individual initiative. I can see that one of the basic requirements for this happy state is a continuously nearer approach to the ideal of equality of opportunity—not equality of wealth or equality of income or redistribution of wealth, but such equality of opportunity as may make it possible for each man and woman to develop to the utmost his inherited and acquired characteristics so that both the individual and the country may profit to the utmost from this freedom of opportunity for the individual. As three of the elements in this equality of opportunity, I believe that a true case can be made for decent housing as a moral measure, more general provision of sound education for the development of the mind, and more generally available medical facilities for the improvement of our bodies. These are the minimums for equality of opportunity.

For this reason I have supported the housing bill, though it had in it many features about which I was not enthusiastic. I have supported Federal aid to education, though it raised certain problems which to my mind have not yet been solved. For this reason I joined with the senior Senator from New York in introducing a bill involving Federal support for the Nation's health but without the feature of socialized medicine.

I do not propose, Mr. President, to allow Mr. Stalin, by driving us into our present fiscal situation, to determine that we shall not advance in this country toward greater achievement in personal initiative, individual freedom, and improvement of our whole citizenship—young and old—in body, mind, and spirit. I do not believe we need to fall into this trap which Stalin has set for us. I will say more about this when I have completed the reading of the letter, with which I now proceed.

There may be a suggestion of hope in this alignment. The welfare clause of the Constitution under present practice can be employed to justify almost any adventure, no matter how extreme. On the other hand, there is an area wherein virtually all agree that the Federal Government can properly function. This includes the construction of highways, the utilization of water powers, the improvement of waterways and harbors, etc., etc. Would it not be feasible to define this sphere of acceptable Federal activity and set up somehow an absolute prohibition against extension of Federal intervention beyond the prescribed perimeter. So far, the welfare clause has been defined only by the courts, and it might be of enormous advantage to circumscribe its application by a constitutional amendment.

Mr. President, it will be readily seen that I do not agree with that paragraph, because I believe that the welfare clause should be carried to the elements that have to do with equality of opportunity, and not beyond that area. I continue:

One reason why the States are hungry for Federal grants is that their individual ability to indulge in wild finance has been

knocked out by the 10-percent tax on their own circulation. They come to the Federal Government because it alone can print as much money as it pleases and create whatever credit it desires, the only limitation being the inevitability of collapse that such practices assure.

The President's Fair Deal program has met with one rebuff after another. Only in the authorization for the TVA steam plant and the passage of the housing bill has he been able to advance significantly the approach to socialism. But, again, credit for the housing bill certainly does not belong wholly to the administration, for the majority of five votes by which it passed could hardly have been obtained had TAFT not supported the measure in the Senate. Perhaps as much credit is due him as the administration for its passage. The President likewise has failed to obtain any increase of his regulatory authority and even rent control, as extended, was so compromised that liquidation of it became assured.

Failure of the administration to control the Congress, although it has relatively large nominal majorities in both Houses, exposes the great paradox in American politics. The cohesive power of public spending, combined with traditional politics, enables the Democratic Party to coalesce and elect the Chief Executive. But it is not firm enough to select a Congress that will sanction those very commitments that give control of the executive branch to those left of center. The alliance that was powerful enough in the Senate to defeat the repeal of Taft-Hartley and was strong enough in the House to do much the same thing represents a natural gathering together of those elements that are right of center, and they constitute in the Congress a majority.

A continuation of this peculiar situation would mean a more or less permanent situation wherein the President and the Congress were always at odds on many fundamental policies. It remains to be seen if, by some device or other, this conservative grouping in Congress can be effectively extended to cover the election of a President, thus providing the public with a clear choice between the spending theory and the sound principles of economy.

May I suggest, Mr. President, that the administration's program is failing, and rightfully failing, because it does not recognize fiscal realities and also because it does not address itself directly enough to the fundamentals of free initiative in an industrial society. There is practically no recognition in Washington of the heavy burden which is laid on small business even by the friendly paternal interest which Government takes in it. The administration does not realize the problems which this heavy taxation of which I have spoken presents to business, which otherwise would be capable of expanding and adding to employment, production, and consumption. We are too much concerned with semantics. We are too much concerned with resounding phrases, empty of useful content for improving the condition of the American people. Mr. President, I continue:

Washington is no longer just the Capital of the United States; it is the capital of the world. Decisive policies are not determined by domestic conditions only, but are largely the consequence of international influences. Thus, proponents of a ponderous budget justify much of it as a defense against communism. To this extent, Stalin makes American policy.

Even were the case otherwise, the Government has become so vast that nobody in it can comprehend it in its entirety. This leads to abuse and secrecy. The huge expenditures in the field of atomic energy, for instance, must be accepted on faith, because the administration contends it would be ruinous to divulge the character of operations. Similarly, the whole military establishment is shot through and through with "hush-hush."

This week, the President sent through a proposal calling for $11,000,000,000 for highways and again a justification is "defense." The Federal Government is a giant of such tremendous proportions that his appetite is beyond the capacity of any sound productive economy to satisfy. Some of the best minds in the country, uninfluenced by politics and uncorrupted by thirst for power, have raised their voices in protest not only against prodigality at home, but also against the huge export of exhaustible resources.

The mail of Senators is overwhelmingly concerned with the one issue of economy. Protests are coming from responsible citizens everywhere who see in the condition a threat to their primary security. They have begun to fear that they will be looted by the mob, not with guillotine and pistol, but with votes. The talk is all of a budget crisis. Were it only that it would be bad enough, but it goes far deeper. There is a budget crisis only because there is a moral crisis and only because people everywhere, high and low, have been taught to believe that the way to prosperity is through indiscipline, disobedience, and abhorrence of frugality—a rejection, in a word, of all that moral law on which the greatness of this country was founded and on which its permanent well-being must rest.

"The people never give up their liberties but under some illusion," said Edmund Burke, but certainly they ought now to be under no further illusion in this country as to the necessity for applying the brakes. They must realize that what is softly called "deficit financing" is in fact a slow approach to communism. To fight communism by bankrupting material and spiritual forces that alone can successfully combat it is a fallacious method.

A serious effort is being made to reduce or eliminate some of the most annoying excise taxes, as a stimulant to business, and this apparently would magnify the deficit although there would be compensation in the expansion of business and a comparable increase accordingly in other forms of revenue. There is also a strong demand in both Houses for the President to do what Congress itself should have done and automatically cut the appropriations or order some of them not spent. What is needed, however, is an awakening of the national conscience and a determination on the part of responsible citizens everywhere to rebuke those who think that by spending they can perpetuate their own tenures of office.

America is a commercial empire. The solvency of its institutions and the sanctity of its commitments are the bulwarks on which civilization depends. Its productivity is the supreme defense against communism and the riot of disillusioned populations. Above all, therefore, sobriety in finance is required and not even Stalin himself is so grave a menace to human well-being as reckless welfare.

The business recession is a protest against the high cost of Government. Throughout the nonpolitical economy natural readjustments are in process, as responsible managements strive to bring down costs and maintain markets through the age-tried device of fair prices. There must be similar good management in the Government or there will be disaster.

Mr. President, that is the end of the Whaley-Eaton letter. This letter deals only lightly with the moral issues involved. It deals lightly with the short-sighted unwillingness of some businesses to reduce prices to the general benefit, instead of lending encouragement to higher wages for the exclusive benefit of the strongest and best organized unions in opposition to the public welfare as a whole. It deals lightly with this same short-range insistence on continuous wage increases on the part of the stronger unions, whether or not such increases are good for business or for consumers as a whole. It touches lightly on the assault made by politicians on the moral integrity of the American farmer, endeavoring to persuade him to come into the universal subsidy scheme whereby everyone of us as consumers and taxpayers are supposed to subsidize ourselves in our capacity as businessmen, laborers, and farmers. No, the Whaley-Eaton letter touches for the most part on the soulless and mechanical fiscal mechanism through whose operation we are slowly driving ourselves into stagnation and decay, all under the controlling influence of an alien totalitarian government 5,000 miles away. But every one of the fiscal and monetary elements contains as an integral part of it a moral judgment which we cannot escape having to make.

It is, in fact, only in a mechanical sense that we can attribute our problems to Joseph Stalin and his Politburo. He so acts as to seem to require enormous military expenditures. But acting with him is the current and immoral fallacy that it is the duty of the government to provide for the citizen practically everything that he thinks he needs, instead of making sure that the government puts no obstacles in the way of his assuring his own welfare by his own effort.

Mr. President, I believe that this situation is one which can be successfully met. It can be successfully met only by looking at it as a whole. It can be met by economy of Government operation, by a careful selection and organization of new social instrumentalities which should be directed toward equality of opportunity rather than toward redistribution of income. It can be met by seeking the utmost in effective means for meeting the menace of a predatory, expanding totalitarian power.

May I say to my fellow Senators that I do not think we are looking at our various undertakings in the light of the whole problem. As for myself, I shall endeavor to do so. Feeling, as I do, the necessity for bringing our whole fiscal commitments into balance if we are to remain a free nation, if I suggest certain reductions in the enormous expense of our armament, it will be because I feel that they can be safely made in view of the total situation. If I do the same with respect to commitments for aid abroad, it will be for the same reason. With regard to welfare legislation at home and other legislation relating to industry, transportation, and organized labor—if at times I should seem no longer to be the "liberal" which I have been generally credited with being, it will be either because the proposed action seems misdirected instead of hitting the bull's eye of our social progress or because liberalism has become confused with a dangerous

liberality which the country cannot safely undertake.

Mr. President, the time has come when we must look at all our problems in the light of our whole problem of survival as a free, democratic, capitalistic society. I hope that each of us will endeavor to see our problems in that light.

EXHIBIT A

THE START OF WORLD WAR III?

(By David Lawrence)

History records that when two opposing nations or groups of nations place their chief reliance on military force and begin mobilizing their armed strength as a means of bringing pressure on one or the other to refrain from a specific line of policy, the end result is war.

The President of the United States last week formally declared that the Soviet Union is an aggressor state.

The President of the United States asked the Congress to give him complete control of an arms program which he may apply as he pleases in Europe—now America's first line of defense.

The President of the United States says this is necessary to prevent further aggression by Russia. In the message to Congress and in the accompanying document issued by the Department of State, the United States formally recites acts of aggression already committed by Russia. Specific mention is made of the Berlin blockade and of Soviet intrusions in Iran, Greece, and Turkey.

The President of the United States thus builds the basis on which a formal declaration of war—or rather the ratification of an existing state of war—could some day be made.

WHY UN IS INEFFECTIVE

The President of the United States, incidentally, disposes of the United Nations thus:

"In joining the United Nations, the nations have given their assent to the basic principles of international peace and security.

"We have, however, learned the unfortunate truth that this obligation, by itself, is not sufficient at the present time to eliminate the fear of aggression and international violence. The record of world events since 1945 offers us no certainty that all members of the United Nations will uphold these principles of peace in actual practice. Indeed, there is proof to the contrary—proof that in the pursuit of selfish ends some nations have resorted and may again resort to the threat or use of force.

"The Soviet Union, with its violent propaganda, its manipulation of the conspiratorial activities of the world Communist movement, and its maintenance of one of the largest peacetime armies in history, has deliberately created an atmosphere of fear and danger."

PREFACE TO WAR

Here we have all the familiar language of governments prior to the outbreak of war. One's own side is guiltless. Only the other side is guilty. One side alone is arming for defense; the other fellow is arming only for aggression.

Presently we shall hear the Russian Premier pointing to our $15,000,000,000 armament budget and our proposed $1,450,000,000 of military aid for Europe as the largest arms expenditure of any nation in so-called peacetime.

The Soviet Union in 1945, having participated in World War II at the cost of 5,000,000 dead, applied the old-fashioned concept that to the victor belong the spoils and insisted on an orbit of influence in Europe and a domination of the territory adjacent to her borders.

This conflicted with the traditional British sphere of influence in the Near East. Turkey and Greece were within that sphere.

The British found themselves unable to cope with Russian demands. So the United States took over the responsibility of keeping Russia from extending her influence into Greece and Turkey.

Now all of Europe finds itself in fear of the biggest land army in the world. So the United States, with the biggest air force and the largest navy in the world, and the sole possessor of the atom bomb, takes over the responsibility of helping to organize a big land army in Europe as a counter-balance to Russia's land army.

There is no mincing of words or cautious phrases such as diplomacy was wont to use in the past, though theoretically the Soviet Union and the United States are at peace and technically at least they are still engaged in friendly relations.

But before all the world Russia now has been pronounced an aggressor and the largest armed might of all history is being assembled to coerce Russia into submission.

This is risky business. Military preparation by itself has rarely intimidated a proud nation or one possessed of ample manpower to resist.

The military mind dominates our councils. Threat and counter-threat is all that it thinks about.

On this point the comment of Professor Morgenthau of the University of Chicago in his recent book Politics Among Nations is worth noting:

"Given the nature of the power relations between the United States and the Soviet Union and given the state of mind which these two superpowers bring to bear upon their mutual relations, diplomacy has nothing with which to operate and must of necessity become obsolete. Under such moral and political conditions, it is not the sensitive, flexible, and versatile mind of the diplomat, but the rigid, relentless, and one-track mind of the military which guides the destiny of nations. The military mind knows nothing of persuasion, of compromise. * * * He knows only of victory and of defeat."

Only one force—physical force—is brought forth by the military mind as a preventive.

In the face of the utter failure of physical force to win the peace, moral force deserves a trial.

What does moral force mean? It means the employment of candor and honesty in facing the facts of international life. It means tolerance and reciprocity. It means a willingness to compromise—not on things of the spirit or principle or human liberty, but on material things of which we have an abundance.

SOME BLAME ON US

We should long ago have negotiated an over-all settlement of European problems, including the demobilization of the Red Army. We should have granted to Russia a sphere of influence in eastern Europe for her trade provided that within such a sphere there was no interference with sovereignty or independence.

We should have granted adequate reparations to be paid Russia out of German production.

We should have reached an agreement a year ago on the Russian proposals to end the Berlin blockade. An understanding was possible then.

We must share some of the blame for the present state of distrust between Russia and the western world. The chain of events did not start with the coercion attempted against us by the Russians in the Berlin blockade. President Truman proclaimed on March 12, 1947, a policy of military assistance to Greece and Turkey. This was regarded by Russia as a declaration of "cold war." It came 2 days after the Council of Foreign Ministers began its meeting in Moscow. It doesn't promote the cause of diplomacy to apply military coercion as an international conference starts. Russia's subsequent distrust of the Marshall plan as basically military should have occasioned no surprise, for it was announced less than a month after Congress authorized a $400,000,000 appropriation for military and economic aid to Greece and Turkey.

A PROGRAM FOR THE FUTURE

But what can moral force do now?

We can propose to Russia, as a part of an over-all European settlement, that she demobilize her army and reduce it to a police-force size so that other nations in Europe will not live in terror of sudden attack. We should offer to reduce our own armaments at the same time.

We can tell the people of Russia that, because the peace of Greece and Iran has been disturbed by Russian acts, there must be guarantees that the territory of member states of the United Nations will remain inviolate.

We must use every means—the radio and distribution of printed material throughout the Russian world—to proclaim our purpose.

Such a program has a good chance of eventual success because the peoples of the world, including the Russian people, do not want war. The mobilization of armies is a last step and not a first step. We have not yet made the moves that should have been made before we formally denounced another government as an aggressor and ordered our armies, navies, and air power to be ready for instant war.

Only after moral force had failed should the elements of physical force have been brought into being.

The record would then be clear and so would our conscience.

Moral force was worth a trial—it still is.

Mr. TOBEY. Mr. President, will the Senator yield?

Mr. FLANDERS. I yield.

Mr. TOBEY. I remember that some months ago the distinguished Senator from Vermont read to me a definition of "liberal" which I believe he gathered from the Encyclopedia Britannica. Is that correct?

Mr. FLANDERS. Yes.

Mr. TOBEY. Did the Senator place that definition in the RECORD?

Mr. FLANDERS. I do not believe I have done so, but I think it would be a good idea to do so.

Mr. TOBEY. I should be glad to do it. Does the Senator still concur in that definition?

Mr. FLANDERS. I do.

Mr. TOBEY. I do, also, and I like good company.

Mr. FLANDERS. If the Senator from New Hampshire will place the definition in the RECORD, I should be very glad indeed, or if he wishes me to do so, I shall be glad to do so.

Mr. TOBEY. Will the Senator provide me with a copy of it?

Mr. FLANDERS. I shall be glad to.

DELIVERED-PRICE SYSTEMS AND FREIGHT-ABSORPTION PRACTICES

The Senate resumed the consideration of the motion of Mr. LONG to reconsider the vote by which the motion of Mr. MCCARRAN to send Senate bill 1008 to conference was agreed to.

The PRESIDING OFFICER (Mr. TAYLOR in the chair). The question is on agreeing to the motion of the Senator from Louisiana [Mr. LONG] to reconsider the vote by which the motion of the Senator from Nevada [Mr. MCCARRAN] to send Senate bill 1008 to conference was agreed to.

Mr. GRAHAM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The roll was called, and the following Senators answered to their names:

Aiken	Hoey	Morse
Anderson	Holland	Mundt
Baldwin	Humphrey	Murray
Brewster	Hunt	Neely
Bridges	Ives	O'Conor
Butler	Johnson, Colo.	O'Mahoney
Byrd	Johnson, Tex.	Pepper
Cain	Johnston, S. C.	Reed
Capehart	Kefauver	Robertson
Chavez	Kem	Russell
Connally	Kerr	Saltonstall
Cordon	Kilgore	Schoeppel
Douglas	Knowland	Smith, Maine
Downey	Langer	Smith, N. J.
Dulles	Lodge	Sparkman
Ecton	Long	Stennis
Ellender	Lucas	Taft
Ferguson	McCarran	Taylor
Flanders	McCarthy	Thomas, Okla.
Frear	McClellan	Thomas, Utah
Fulbright	McFarland	Thye
George	McGrath	Tobey
Gillette	McKellar	Tydings
Graham	McMahon	Vandenberg
Green	Magnuson	Watkins
Gurney	Malone	Wherry
Hayden	Martin	Wiley
Hendrickson	Maybank	Williams
Hickenlooper	Miller	Young
Hill	Millikin	

The PRESIDING OFFICER. A quorum is present.

Mr. KEFAUVER. Mr. President, I think it might be useful, in considering the pending motion, to review briefly the history of the basing-point legislation, and also the circumstances and conditions which led up to the introduction and consideration by Congress of Senate bill 1008.

I wish to say in the beginning that, in my opinion, the bill is unnecessary. It adds to instead of lessens confusion. In the interest of our economy and in the interest of small business, I think the bill should be killed if there is any parliamentary way by which that can be done. In lieu of that, at least the Carroll amendments should be adopted as a minimum measure.

The purpose of the bill, as stated by the distinguished Senator from Wyoming [Mr. O'MAHONEY] when it was being considered on June 1 on the floor of the Senate, was stated as being first, to avoid creating new opportunities for monopolistic practices, and second, to clarify the legal status of basing-point pricing.

Mr. President, in my opinion, today there is no confusion, there is no question as to what the law is in the matter of a basing point as affecting our antitrust statutes. I think the evidence shows rather conclusively that after the decision in the cement company case a determined effort was made to create the impression that there was a great deal of confusion, and that the effort to create that impression was made on behalf of some people, at least, in certain industries as a means of amending and weakening the antitrust laws of the Nation.

THE MAJOR CASES

In order to consider whether there is confusion or not, or as to whether any legislation on this subject is necessary or desirable, I think it might be well and informative to consider the four major basing-point cases which our Supreme Court has decided in recent years, without going into a great deal of detail about them.

The Supreme Court has passed on four major cases involving basing-point pricing against which the Federal Trade Commission issued cease and desist orders. These are first, Corn Products Refining Co. against Federal Trade Commission, decided April 23, 1945; second, Federal Trade Commission against A. E. Staley Manufacturing Co., decided on the same date; third, Federal Trade Commission against the Cement Institute, decided April 26, 1948; and fourth, Triangle Conduit Co., Inc., et al. against Federal Trade Commission, decided late this spring.

I add another case which I think is involved in the discussion, namely, the case of Standard Oil Co. against the Federal Trade Commission, decided recently by the Seventh Circuit Court of Appeals. That was not a basing-point decision, but it has application to the present discussion.

The first two of these cases, the Corn Products Co. case and the Staley Co. case, were brought under section 2 of the Clayton Act as amended by the Robinson-Patman Act.

THE CORN PRODUCTS CASE

The significant facts in the Corn Products case are these: The Corn Products Refining Co. has two plants for the manufacture of glucose or corn sirup—one at Argo, Ill., within the Chicago switching district, and the other at Kansas City, Mo. In selling glucose, the Corn Products Co. used its Chicago plant as a basing point, charging the Chicago base price plus freight from Chicago on all sales, whether they were made from the Chicago plant or from the Kansas City, Mo., plant.

Under this practice buyers of glucose in Kansas City paid a fictitious or phantom freight of 40 cents on every 100 pounds of glucose they bought. On all deliveries from the Kansas City plant to points freightwise nearer to Kansas City than to Chicago, buyers paid phantom freight of varying amounts. On all deliveries from the Kansas City plant freightwise more remote from Kansas City than to Chicago, the Kansas City plant absorbed freight. Under this practice purchasers were denied the transportation savings that normally would accrue to them by reason of their proximity to Kansas City.

It is an interesting part of the record that two or three candy plants in Kansas City buying glucose from the Kansas City plant, in order to avoid having to absorb the freight charge from Chicago to Kansas City—although the product was never actually transferred—moved their plants from Kansas City to Chicago.

Mr. LONG. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER (Mr. HUNT in the chair.) Does the Senator from Tennessee yield to the Senator from Louisiana?

Mr. KEFAUVER. I yield for a question.

Mr. LONG. I should like to ask the Senator if in his opinion the same glucose companies could not make use of the provisions of section 1 of the bill in such a manner as to work out exactly the same scheme and in such a way that it would be impossible for the Federal Trade Commission to do anything about it?

Mr. KEFAUVER. I think the Senator is correct. As section 1 is now written I am afraid that may be the case. I would say it would not be the case if the judicial interpretation were applied according to the feelings and expressions of the distinguished Senator from Wyoming [Mr. O'MAHONEY]. But we have no way of knowing whether the legal interpretation, or the legislative interpretation of section 1, as made by the Senator from Wyoming and the Senator from Pennsylvania [Mr. MYERS] is going to prevail or whether the legislative interpretation of the House Judiciary Committee is going to prevail. Anyway, in my opinion, we would be running a great risk if we were to pass section 1, as it might permit the same thing to happen in the future that happened in the Staley case.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. KEFAUVER. I yield.

Mr. LONG. It is my understanding that count one of the Rigid Steel Conduit Co. case involved other manufacturers of other rigid steel conduit who were not independently and in good faith arriving at identical purposes with those who were proved to be in conspiracy. Under the bill as now written we could have a case in which we could not prove the conspiracy, but the effect would be just as injurious to the public interest as though they were in conspiracy.

Mr. KEFAUVER. That is correct. The first count of the Rigid Steel Conduit case was based upon an outright conspiracy. The Federal Trade Commission won that case. The second count was based upon the systematic adoption of the same plan even though there was not shown to have been any actual getting together and actual conspiring between the 16 defendants. The defendants did not appeal from the conviction under section 1. They appealed from the conviction under section 2, where there was a constructive conspiracy by virtue of the systematic use of the same method. I greatly fear that if the bill is passed with the House interpretation as it is, the evil practices which resulted in the bringing of the Rigid Steel Co. case might also be availed of by American monopolists. I thank the Senator from Louisiana for his thoughtful observation.

Under the practice I have referred to the purchasers were denied the transportation savings which normally would accrue to them by reason of their proximity to Kansas City, and the Kansas

City plant realized varying mill nets depending on the point of delivery. The Federal Trade Commission found that this practice constituted a price discrimination within the meaning of section 2 (a) of the Clayton Act—which is the Robinson-Patman Act—and that it had injured competition among candy manufacturers. The Supreme Court upheld the Commission's order that the Corn Products Refining Co. stop such price discrimination.

THE STALEY CASE

The Staley case, which was decided on the same day, is a companion case to the Corn Products Co. case. The Staley Manufacturing Co. has its glucose plant at Decatur, Ill. In selling glucose it used the Corn Products Co.'s Chicago price as a base price. Under this practice, the Staley Co. charged buyers of glucose at Decatur the Corn Products Co.'s Chicago base price plus freight from Chicago to Decatur, although glucose was bought from Staley's Decatur plant.

On all sales freightwise nearer to Decatur than to Chicago, the Staley Co. charged phantom freight. On all sales freightwise nearer to Chicago than to Decatur, the Staley plant absorbed freight. The result was varying mill nets depending on the location of the buyer. The Commission found this to be price discrimination within the meaning of section 2 (a) of the Clayton Act and that it injured competition among the buyers of glucose. The Supreme Court affirmed the Federal Trade Commission's cease-and-desist order and in doing so rejected the defendant's plea that its prices were made in good faith to meet equally low prices of its competitors.

Perhaps, such discrimination would also be protected against in section 2 of the bill by virtue of the amendment which the junior Senator from Tennessee offered, but the Carroll amendment embracing a wider scope, would be a better protection. If the bill were passed without the Carroll amendments, then such a case as the Staley case would be decided against the Government because the defense would be that they were simply adopting the same pricing method the Corn Products Refining Co. had used, and they were meeting competition in good faith. So, in order to save the decision in a similar case it is necessary to have the Carroll amendments adopted.

Mr. LONG. Mr. President, will the Senator yield?

Mr. KEFAUVER. I yield.

Mr. LONG. In order to set the record straight I wonder if the Senator would permit the following statement: It is my understanding that when the Senator offered his amendments to Senate bill 1008, to the substitute presented by the Senator from Wyoming [Mr. O'MAHONEY], the Senator from Tennessee used the word "will." I think the Senator realized that the word "will" was not sufficiently inclusive; therefore the junior Senator from Tennessee had stricken the word "will," and wrote in the word "may" in its place in order that the amendment should have the broad sweeping effect that the Carroll amendment would have, but when the amendment was printed, by reason of some clerical error, it contained the word "will" rather than the word "may"? Is not that the fact of the case?

Mr. KEFAUVER. I will say to the distinguished Senator from Louisiana that late in the afternoon on June 1, when the bill was brought up and the Senator from Wyoming had before the Senate a substitute, from the floor he proposed certain amendments to the substitute, and they were about to be voted on. I had written an amendment which I thought would save the decision in the Staley case and also would save the decision in the Standard Oil Company against Federal Trade Commission, the Seventh Circuit, case. On page 2 of the bill I proposed to insert the words "except where the effect of such absorption of freight will be to substantially lessen competition." That is the way I stated it orally. I said orally that I wanted the amendment to that effect accepted. Then in looking it over I thought the word "will" was wrong, in view of the fact that language in connection with antitrust laws always contains the word "may," so I struck out the word "will" from the printed copy which was sent to the desk and wrote in the word "may." But I take it that, by virtue of the fact that orally I had used the word "will," in determining which word I meant, the amendment was written up that way.

But there is one other very important difference between the Senate amendment which the junior Senator from Tennessee submitted, and which was adopted, and the Carroll amendments, which were adopted in the House. Actually, the amendment to section 2 is the important one, and the amendment to section 3, which is the enforcement amendment, carries the same thought. The amendment which I offered, which became the Senate amendment, provides that they may absorb freight to meet the equally low price of a competitor, "except where the effect of such absorption of freight will be to substantially lessen competition." The Carroll amendment says:

> Except where such absorption of freight would be such that its effect upon competition may be that prohibited by this section.

Of course, the section referred to is the one which is amended, section 2 (a) of the Clayton Act, which is the Robinson-Patman Act.

The additional prohibitions in the Carroll amendment which are in the Robinson-Patman Act, section 2 (a) of the Clayton Act, are these: These things cannot be done if they will lessen, damage, destroy, or injure competition. That is, the prohibition in the Carroll amendment, or in section 2 (a) of the Clayton Act, is considerably broader than the prohibition in the amendment which was offered by the junior Senator from Tennessee. Perhaps at this point it might be well to state for the RECORD the exact prohibitions.

Mr. LONG. Mr. President, will the Senator yield?

Mr. KEFAUVER. I yield.

Mr. LONG. Is not the language "to injure, destroy, or prevent competition"? In some cases the words "to lessen competition" are included. The language in section 2 (a) of the act is "where the effect of such discrimination may be to substantially lessen competition or tend to create a monopoly in any line of commerce or to injure, destroy, or prevent competition."

Mr. KEFAUVER. That is the language. As Senators will see, that is considerably broader and more inclusive, more protective to competition and to free enterprise than the language which was used in my amendment.

THE SIGNIFICANCE OF THE CORN PRODUCTS AND STALEY CASES

The proponents of S. 1008 do not challenge either the legal validity or the economic soundness of the Federal Trade Commission's position in these cases; and they are well advised in not doing so. Not only did basing-point pricing as practiced by these two companies injure competition in the manufacture and sale of candy, which was the specific issue before the court—but it afforded a convenient device for eliminating price competition between Staley and the Corn Products Co., an issue not before the court. This, in my judgment, is the more important issue. To appreciate its significance, it is necessary to recall that Corn Products Refining Co., has been the dominant firm in glucose and corn products for more than 50 years. It is one of the trusts organized during the trust-and-combination movement which culminated about the turn of the century. At times it has achieved almost a 100-percent monopoly of the market. In 1906, for example, it controlled 92 percent of the corn ground in the United States and 100 percent of the trade in glucose products. In achieving this position it had resorted to the same predatory practices that the old Standard Oil Trust had made famous—buying out competitors, operating bogus independents, obtaining rebates, and so forth. After these practices were outlawed by Congress and the courts, the Corn Products Co. lost ground to its rivals, but, as late as 1939, it controlled approximately 40 percent of the domestic glucose trade, and it has remained the price leader in the industry. The basing-point system was a convenient device by which its leadership was made effective. This system of pricing has facilitated a quick and easy harmony in pricing policies among rival sellers possessing great power over the market. But apparently this harmony has not always been achieved without concerted action among the leading producers. At any rate, both the Corn Products Co. and the Staley Co., as defendants in a Sherman Act case involving a charge of price fixing, consented to a decree in 1932 banning price fixing; and both, with others, are now respondents in a proceeding in which the Federal Trade Commission charges conspiracy to fix prices of corn products.

THE CEMENT CASE

The proceedings in the Cement case were under both the Federal Trade Commission Act and the Clayton Act. The Federal Trade Commission charged, first, that cement manufacturers had conspired to use the basing-point system to eliminate price competition among themselves in violation of section 5 of the

Federal Trade Commission Act, which authorizes the Commission to ban unfair trade practices; and, second, that this had resulted in price discrimination that substantially lessened competition among the sellers of cement. The Federal Trade Commission's record in this case—50,000 pages of testimony and 50,000 pages of exhibits—reveals concerted action among cement manufacturers extending intermittently over almost half a century designed to eliminate competition in the sale of cement. The basing-point system had become the principal instrument in this program, but it had been supplemented by the standardization of trade practices and the use of freight rate books to make easy the calculation of identical delivered prices at all points of delivery. While the system did not work equally well through good times and bad, it worked well enough so that throughout the 1930's cement manufacturers persistently offered to supply cement on Government projects at prices identical to the fourth decimal place, although the prices were presumably submitted independently under secret and competitive bidding.

The Supreme Court, in reversing the lower court, affirmed the Commission's orders to the cement manufacturers, that they cease and desist from perpetuating the use of the basing-point system through any planned common course of action. No Member of Congress challenges either the Commission or the courts in their findings in this case. In the language of the Senate Committee on Interstate and Foreign Commerce in its Interim Report on Federal Trade Commission Pricing Policies, the action of the Commission and the Court in finding illegal the practices of the respondents in the Cement case is wholeheartedly and unequivocally approved.

I believe that is the language which was used by the special committee headed by the distinguished Senator from Indiana [Mr. CAPEHART].

THE CEMENT CASE PRECIPITATED THE BASING-POINT CONTROVERSY NOW BEFORE CONGRESS

In passing judgment on the significance of the emergency legislation now before Congress, it is essential to remember that it is the Cement case that precipitated the demand for congressional action. The Supreme Court handed down its decision in the Cement case on April 26, 1948. On April 28, 1948, Mr. Irving S. Olds, chairman of the board of the United States Steel Corp., which is the price leader in an industry whose basing-point price system has been under attack by the Federal Trade Commission, in reviewing the impact of the Supreme Court's decision in the Cement case, said that industry was faced with two alternatives—either it must seek remedial legislation or it must educate the Supreme Court—see Journal of Commerce, April 28, 1948, page 1. "I can't believe," he said, "that the country is going to let industry be disrupted by a theory that was developed many years ago by a Princeton professor."

With this warning, industry mobilized to obtain legislation that would legalize basing-point pricing. According to a news story in the Rocky Mountain News of December 18, 1948, by Washington Correspondent James M. Daniel, "25 percent of the initial organizing expenses of the campaign to legalize basing-point price-fixing was put up by Pittsburgh industrialists." Members of Congress are familiar with the developments in Congress on this issue since the campaign for revision of the antitrust acts began last summer.

The steel industry's abandonment of basing-point pricing, followed the Supreme Court's decision in the Cement case, apparently was a not-too-subtle, but very significant, move in its campaign to obtain remedial legislation and educate the Supreme Court. Although the Federal Trade Commission had inaugurated proceedings against the steel industry's basing-point practices, on the basis of the precedent in the Cement case where conspiracy had been proved, unless the steel industry had unlawfully conspired to use the basing-point system, the industry was under no obligation to abandon it so far as the Cement decision was concerned. By abandoning it in a sellers' market, the industry killed two birds with one stone: First by leaving its base prices unchanged and passing all freight charges on to the consumer, it raised the average f. o. b. mill price for steel and thereby increased its earnings; second, it persuaded many unthinking persons that f. o. b. mill pricing necessarily meant higher steel prices. Whatever their methods, steel manufacturers in inaugurating f. o. b. pricing accentuated the growing demand that Congress do something about the matter.

Although the Cement case precipitated the fight for congressional approval of basing-point prices, the Rigid Steel Conduit case has been made the scapegoat in this battle. It is the case that the proponents of the basing-point system now charge is primarily responsible for most of the confusion about the legality of basing-point prices.

On this matter the distinguished Senator from Wyoming [Mr. O'MAHONEY], when testifying before the House Judiciary Committee, stated that it was the Rigid Steel Conduit case which had brought about the confusion.

Mr. President, because the proponents of this proposed legislation to legalize basing-point pricing have made the Rigid Steel Conduit case the scapegoat in this controversy, it is essential that that case be clearly understood. That case involved an appeal to the Circuit Court of Appeals for the Seventh Circuit from the finding by the Federal Trade Commission that 14 corporate manufacturers of rigid-steel conduit had violated section 5 of the Federal Trade Commission Act in the sale of their products.

Section 5, of course, gives the Federal Trade Commission the right to prevent unfair methods of competition.

The Commission's complaint charged violation of the law on two counts, as has been pointed out by the distinguished Senator from Louisiana [Mr. LONG].

Count 1 alleged that the respondents had conspired to use the basing-point system of pricing and thereby had substantially lessened competition in the sale of rigid-steel conduit, and that that was an unfair trade practice within the meaning of section 5 of the Federal Trade Commission Act.

Count 2 charged that each corporate respondent had violated section 5 of the Federal Trade Commission Act through the concurrent use of a formula method of making delivered-price quotations, with the knowledge that each did likewise, with the result that price competition between and among them was unnecessarily restrained; in other words, that each followed the price leader, and that by virtue of their arriving at the same price and by virtue of their use of freight rate books, they were acting in concert. That was the basis of count 2 of the indictment.

Mr. LONG. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER (Mr. GRAHAM in the chair). Does the Senator from Tennessee yield to the Senator from Louisiana?

Mr. KEFAUVER. I yield.

Mr. LONG. Is not that the very crux of the issue on the first section of Senate bill 1008, namely, that count 2 would be legal if this bill were passed? In other words, if this bill were passed, those people, acting independently, could perpetrate on the public the same robbery they were previously perpetrating by conspiring; and insofar as one could not prove the conspiracy merely because they were arriving at identical prices, this bill, if passed, would do the Federal Trade Commission no good in trying to restrain that practice. Is that correct?

Mr. KEFAUVER. Yes, that is a correct statement. I am very fearful that if section 1 of the bill as it now stands is enacted into law, the mere fact that several of the companies—as was true in the case of the 14 defendants in the Rigid Steel Conduit case—quoted the same basing-point prices all over the Nation and had their freight rate books so as to make it convenient to quote prices, would not be sufficient basis for prosecution to prevent that practice, even though they did what formerly had been done by those 14 defendants. I am afraid, in other words, that if the action against the 14 defendants had been brought under section 1 as it now stands in this bill, the decision of the Court would have been different from the decision which was reached in that case, for the reason that section 1 would seem, inferentially, at least, to place upon the Government the burden of proving some actual combination or conspiracy. The Supreme Court necessarily will say that in passing this proposed legislation, the Congress must have meant to do something; that Congress would not pass laws simply to leave things as they were. Of course, if we could pass the bill and not have the Supreme Court make such an interpretation, that would be a different matter.

The distinguished Senator from Wyoming for whom I have the highest regard both personally and for his great work to uphold the antitrust laws says he feels that, under section 1, the concurrent use of a formula method of making delivered price quotations, with each

manufacturer doing likewise, would render any group of companies which engaged in that practice liable under section 5 of the Federal Trade Commission Act. But I am sorry to have to say that the House Judiciary Committee and certain leading members of that committee have placed a different interpretation upon section 1.

So, in that situation, with section 1 in that condition, with the language evidently included with the intention of making some change in the law, with certain Members of the House of Representatives taking the other view of the question, I am afraid that the small businesses and the free enterprises of the Nation might lose the protection of the decision of the Court in the Rigid Steel Conduit case.

Mr. CAPEHART. Mr. President, will the Senator yield?

Mr. KEFAUVER. I yield.

Mr. CAPEHART. Does the able Senator from Tennessee agree that each seller, if acting independently, without collusion or conspiracy, should be given the right to pay all the transportation costs or to absorb a portion of them or to equalize his transportation costs with those of his competitors?

Mr. KEFAUVER. I agree that each seller, acting independently, and not in actual or constructive collusion or arrangement with others, can sell where he wants to, can absorb freight to any amount he wishes to, and can do anything else he wishes to do in that connection.

Mr. CAPEHART. Mr. President, if the Senator from Tennessee agrees—and I know he will—that each individual seller has a right to do those things, then, if every seller in an industry does them, how can it be correctly said that there is any conspiracy?

Mr. KEFAUVER. I say to the distinguished Senator from Indiana that those things do not happen merely by chance. It is not by chance that all the cement companies in the United States, or a great number of them, would bid identical prices, down to the last ten-thousandths of a cent, on what were supposed to be secret bids to the Government for the sale of cement for some particular Government project. It is necessary that the Government have the benefit of economic evidence, and certainly the fact that all the companies in a certain line of business are using the basing-point system to quote identical prices is strong economic evidence. Those things would not just happen. Of course it is no longer possible to find evidence of manufacturers' getting together and signing a contract to do such things; but to my mind the fact that they arrive at identical prices is almost conclusive evidence that they must have between them an understanding which is in violation of section 5 of the Federal Trade Commission Act or of section 2 of the Clayton Act.

Mr. CAPEHART. Mr. President, will the Senator yield further?

Mr. KEFAUVER. I yield.

Mr. CAPEHART. I did not have in mind the Cement case because there is no question that those companies were in violation of the law. They were prosecuted, and there is no question in my mind that there was collusion. However, I am not talking about that case at all.

But in the Rigid Steel Conduit case, the court ruled, after the Federal Trade Commission took the position that it did in that case, that concerns that were acting independently in paying freight, absorbing freight, and equalizing freight, were guilty, along with those who were found to be in the conspiracy. That is a correct statement, is it not?

Mr. KEFAUVER. Yes; that is correct.

Mr. CAPEHART. Does not the Senator wish to give some protection to the concerns that are not conspiring and are not acting in collusion, in a situation such as the one in which a seller always finds himself, in that he must ship his goods? They must be shipped, because his customers are not in his back yard. They must be shipped all over the United States, and he must adopt some sort of method to permit that to be done. The method he adopted might be to sell f. o. b. his mill, or he might adopt a method by which he would pay all the transportation costs, or he might adopt a method by which he would pay half of the transportation costs. If he does that independently, without collusion, I think he should have the right to do it. I think the Senator will agree with me. The question is——

Mr. KEFAUVER. If the Senator will wait a moment, I will answer him. Please do not put words in my mouth.

Mr. CAPEHART. I thought the Senator agreed with that.

Mr. KEFAUVER. The Senator carried me further than I had ever intended to be carried.

Mr. CAPEHART. I did not intend to.

Mr. KEFAUVER. I am sorry. I think, Mr. President, as a result of this colloquy with the original sponsor and promoter of this basing-point legislation, we might be getting at the crux of the situation. Did I correctly understand the Senator from Indiana to say, with respect to the Conduit Steel case and the 14 companies that were quoting identical bids on the sale of steel all over the United States, with their freight rate books prepared so they could have an easy price list, so they could quote freight anywhere in the country and have it figured out easily, that even though the companies did not come together and all say, "We are going to do this, and thus conspire," he would want the law amended so as to enable them to do that very thing? Is my understanding correct?

Mr. CAPEHART. No, indeed. That is not the point at all. We all agree I think that we want the seller, acting independently, to be able to pay the transportation costs, or to equalize and absorb them. We are also agreed—at least I know it is my view, and I do not believe I am putting words in the mouth of the able Senator in this instance—we are opposed to collusion and conspiracy.

Mr. KEFAUVER. Either constructive or actual.

Mr. CAPEHART. Yes. Of course, that is the border line. Where are we to begin to draw the line in the matter of collusion and conspiracy? Where is the point at which it can be said they actually conspired and colluded? That is the border line, and that is the whole basis of this legislation, the whole basis of the debate, and it is the basis upon which, of course, we have sincere differences of opinion. That is the whole problem. We are now discussing for the first time I think in this entire debate the real crux of the whole proposition. I think it was primarily brought about by the Conduit case, in which those who were not conspiring and who were not parties to the collusion were found to be in violation of the law, simply because they happened to be doing something which the others were doing.

Mr. KEFAUVER. Then, do I correctly understand the purpose of the Senator from Indiana is to change the rule of law of the Conduit case so that when several manufacturers are quoting identical prices, that will not be deemed sufficient evidence upon which to convict them of violating section 5 of the Federal Trade Commission Act?

Mr. CAPEHART. No. I ask the Senator to remember that we are not even talking about prices. Prices do not enter into this legislation.

Mr. KEFAUVER. I disagree with the Senator.

Mr. CAPEHART. We are talking about freight rates and the absorption of freight. The rates are published and known to everybody. I, as a shipper, have to pay the same rates the Senator has to pay, because the tariffs set up the rates. We are not at all talking about prices. It might be very easy for six of us to get together and say that——

Mr. KEFAUVER. I only mention prices as they were arrived at by the absorption of freight. That is understood.

Mr. CAPEHART. Of course, the Senator is getting back to the basing point, which has been outlawed, and which is wrong. Phantom freight is wrong. It should never have been practiced. It was a bad practice. It has been completely eliminated, and in eliminating phantom freight and the basing point and other bad practices—and they were bad practices; I shall be the first to admit it—I think the courts have gone to the point where now they have American industry confused as to what they can and cannot do. The purpose of this legislation is to clarify the matter. The Senator may well be right. I do not think he is, but he may well be right, that we have not clarified it through this particular piece of legislation.

Mr. KEFAUVER. Let me say to the distinguished Senator from Indiana that there is no confusion in the Cement Co. case. There is no statement in the decision in that case that, acting independently and aside from anyone else, a seller cannot sell on delivered prices or absorb freight. The decision of the Supreme Court in the Rigid Steel Conduit case is clear and plain. The Senator says he agrees with that decision. The Federal Trade Commission has stated in its recent order, upon application to reopen certain parts of the decision in the Conduit case, that they

have no objection, and it is not unlawful to absorb freight when acting independently. Just where is the confusion, and what is the purpose of this legislation? Where is there any confusion?

Mr. CAPEHART. Of course the confusion is partially brought about by the fact that the Associate General Counsel of the Federal Trade Commission testified that the only safe way any seller could sell today was on the basis of a price f. o. b. his own place of business, and the fact that no two attorneys of the Federal Trade Commission agreed as to the proper interpretation of the law.

Mr. KEFAUVER. I suppose the Senator refers to Mr. Walter B. Wooden, the Associate General Counsel.

Mr. CAPEHART. I do not have the file before me.

Mr. KEFAUVER. I have the statement of Mr. Walter B. Wooden, given on June 8, 1949, in the form of a letter, made public, to Representative WRIGHT PATMAN, in which he states the matter as plainly as it could possibly be stated. I also want to call the Senator's attention to the fact that even if some time back there was confusion, if some people wanted to be confused, and if they felt there was confusion, even at the time, on June 1, when this bill was considered by the Senate, if they had some confusion then, any question about confusion is removed by the action of the Federal Trade Commission in Docket 4452, in the matter of the Rigid Steel Conduit Association et al. At this point I want to read the order of the whole Commission, entered into and agreed to by all four of the Commissioners of the Federal Trade Commission. Commissioner Freer had resigned prior to that time, so there were only four Commissioners. Let me read this to see if there is any confusion in what the Federal Trade Commission thinks the law is as affecting what they are going to do. After all, the Senator, of course, agrees with me that so far as the Federal Trade Commission Act and the Robinson-Patman Act are concerned it is the Federal Trade Commission that has the burden of enforcement and of the origination of proceedings under those acts in the matter of basing-point practices. The Senator agrees with me about that. Very well. I read:

IN THE MATTER OF RIGID STEEL CONDUIT ASSOCIATION ET AL., DOCKET NO. 4452

ORDER DENYING MOTION TO REOPEN AND MODIFY

This matter comes before the Commission on motion by certain respondents to reopen the proceeding and modify the order to cease and desist entered on June 6, 1944, by striking paragraph V thereof and substituting certain language set forth in the motion.

The purpose of the requested modification is said to be to make clear that the order does not prohibit any of the respondents, acting independently, from quoting or selling at delivered prices or from absorbing freight. The Commission does not consider that the order in its present form prohibits the independent practice of freight absorption or selling at delivered prices by individual sellers. What the questioned portion of the order does prohibit is the continuance of the basing-point delivered-price system, found to have been the subject of conspiracy, or any variation thereof which might be accomplished through the practices specified in subparagraphs (a), (b), (c), or (d) when done, as stated in the order, "for the purpose or with the effect of systematically matching delivered-price quotations."

Taking the matters pleaded in the motion and memorandum in support thereof as true only for present purposes, no change of fact or of law appears, and there is no showing that the public interest requires reopening and modification of the order. In the absence of an adequate showing of such change of law or fact or the requirements of the public interest, the motion is denied.

By the Commission.

D. C. DANIEL, *Secretary*.

I want to read again this clause:

The Commission does not consider that the order in its present form—

Of course that refers to the order following the decision in the Conduit case which we have been discussing—

prohibits the independent practice of freight absorption or selling at delivered prices by individual sellers.

I understand that is what the distinguished Senator from Indiana wants. It is what most of us want and what most of us will agree to. That is the law as stated by the Federal Trade Commission which has under its jurisdiction the enforcement of this act. It is the law as stated by the Supreme Court in the Corn Products case, the Conduit case, the Cement case, and other cases. I cannot see any confusion about it. There seems to be no present confusion in the minds of the members of the Federal Trade Commission. It is feared that by opening up the whole question and tinkering with the antitrust laws some court will be convinced that we mean to relax the antitrust laws, and we will create more confusion, for no good purpose at all.

Mr. FLANDERS and Mr. LONG addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Tennessee yield; and if so, to whom?

Mr. KEFAUVER. I yield first to the distinguished Senator from Vermont.

Mr. FLANDERS. Mr. President, this question is of a great deal of concern to New England manufacturers, particularly those who are large users of steel. Their concern is also mine. I want, first, to ask a question somewhat along the lines about which the distinguished Senator from Tennessee has been speaking in explaining the position of the Federal Trade Commission, which, to put it in common, everyday language, seems to be that delivered prices are all right if they are not part of a conspiracy in restraint of trade.

Mr. KEFAUVER. Or if they are not part of a systematic doing of the same thing by all concerns.

Mr. FLANDERS. Yes. In that connection, I was much interested in reading the speech made by the junior Senator from Illinois, which I was unable to hear, and noting the very picturesque reference to cement bids in Illinois. I was unable to escape the conclusion that the conspiracy was anterior to delivered prices; and that suspicion was more strongly impressed on me when I saw they had raised their prices 15 percent. It seems to me that afforded a clear case for proceeding against those persons, quite irrespective of the delivered-price situation, if there is any justice in the world. At least, that is the way that particular case appeared to me.

Mr. KEFAUVER. I agree with the Senator, except that I think the Federal Trade Commission proceeded under a theory which could be best sustained, by basing its action on section 2 of the Clayton Act and section 5 of the Federal Trade Commission Act.

Mr. FLANDERS. At least, the great number of bids raises a mild suspicion that there may have been, perhaps, somewhere in the far background, some community of interest and of action.

I wonder if the Senator will allow me, or if the rules of the Senate will permit me, to express in a very few words our concern in New England, which has particular reference to steel prices.

Mr. KEFAUVER. Mr. President, I ask unanimous consent that the Senator from Vermont may make an observation in that connection.

The PRESIDING OFFICER. Without objection, the Senator from Vermont may proceed.

Mr. FLANDERS. In New England we are out on a limb. If the Senator will take a map of the United States, trim off the Atlantic Ocean, trim off Canada, and then hold it up where it can be seen, it will be observed that New England is away out in one corner. How we manage to exist the Lord only knows. I sometimes wonder, myself. One of the things which make it possible to exist in competition with the rest of the country, but not the only thing, has been the fact that our very important metal trades industries are at no disadvantage so far as steel prices are concerned, but we are at a disadvantage in shipping the finished product back, and to overcome that disadvantage we have to be just a little brighter or a little smarter and work a little harder than those in any other part of the country. Otherwise we could not exist. We have tried to be a little brighter, a little smarter, to work a little harder and a little longer, to overcome the west-bound freight differential. But I am very much disturbed that the east-bound price equality may be taken away from us. I am inclined to think I should have to vote against the motion to reconsider if that result should be brought about, for the reasons I have just given.

I thank the Senator.

Mr. KEFAUVER. I want to say, in response to the statement of the Senator from Vermont, that I have before me a report of the Special Committee To Study Problems of American Small Business, pursuant to Senate Resolution 20, printed on February 20, 1949. I believe the Senator from Pennsylvania [Mr. MARTIN] was chairman of the subcommittee and that the distinguished Senator from Nebraska [Mr. WHERRY] was chairman of the full committee.

I also have before me a special report of the same committee, on changes in distribution of steel, 1940 to 1947, published on February 10, 1949. I say to the Senator from Vermont that, in the first place, it is shown that some of the steel companies engaged in this sort of operation: When there was a shortage

of steel, although they were adding to their price a sufficient amount to cover the transportation to their old customers all over the United States, they started dropping the customers who were farthest away from the basing point, in order to keep the freight they were charging and yet not ship steel to distant points. So the record shows there was a decrease in the amount of steel and steel products shipped to the Senator's State and to New England and to other States remote from the basing point. That is one of the evils of the basing-point practice. As a matter of fact, the record shows that one company at least eliminated five States because they were too far away and it was not economical for them to absorb freight in shipping that far, even though they were already charging the freight and adding it to their national average.

Coming more directly to the observation of the Senator from Vermont, he will find that his State was denied a great deal of steel during that time.

Mr. FLANDERS. Mr. President, will the Senator yield for a question?

Mr. KEFAUVER. I yield.

Mr. FLANDERS. During what period was that?

Mr. KEFAUVER. From 1940 to 1947. It will be found in the report published February 10, 1949.

Mr. FLANDERS. Of course, during most of that period steel was under Federal jurisdiction.

Mr. KEFAUVER. Yes; but it will be found that during that period States close to Pittsburgh were plus on the amount of steel they received, but the Senator's State was considerably minus, as were Oregon, California, and other Western States, and every Southern State except in the immediate vicinity of Birmingham, Ala., was greatly minus. Every New England State was minus. Why was that? Because, although some steel companies were charging freight rates so that they could ship to New England or to the far West or to the South, they actually cut down on the amount of steel they shipped to remote places in order to make a greater profit for themselves.

Mr. FLANDERS. Mr. President, will the Senator yield?

Mr. KEFAUVER. I yield to the Senator from Vermont.

Mr. FLANDERS. Should not the Senator completely eliminate from that record the period during which the distribution of steel was completely in control of the Federal Government?

Mr. KEFAUVER. Of course, I take it that has some effect, but it is a rather remarkable pattern, as the Senator will see if he will look at the map and see where the steel went. The increases were all in vicinities closest to the price-basing point.

Let me call the attention of the Senator to what some of the steel people said, as set forth in this report, Changes in Distribution of Steel, 1940–47. I quote:

Mr. Walter S. Tower, president of the American Iron & Steel Institute, acknowledged that he had heard reports of withdrawal from markets because of the freight absorption. I quote further:

Mr. DICKEY. Do you know whether or not the question of withdrawal from certain market areas because of freight absorption and because of the fact that presently, with the demand, the companies do not feel that they have to take the absorption, has been a subject of much discussion within the industry?

Mr. TOWER. I have heard reports that some companies which previously had done business in some markets had withdrawn because it was no longer remunerative to try to reach those markets.

Perhaps the most clear-cut statement made by any member of the steel industry outlining a definite and positive policy of withdrawal from a major consuming area was presented by H. G. Morrow, Spang-Chalfant division, of the National Supply Co., Pittsburgh, Pa.

Mr. MORROW. On April 15, 1946, the Spang-Chalfant division, of the National Supply Co., discontinued doing business in its former Chicago district territory, which included the States of Illinois, Wisconsin, Minnesota, Iowa, and Nebraska.

It has long been an industry custom to sell pipe on a delivered price, made up of the nearest basing point plus freight from the basing point to destination. In the case of Chicago proper, Gary is the nearest basing point. Consequently, a pipe mill located as we are in Pittsburgh, selling in Chicago, must absorb freight, which in 1946 amounted to $4.40 per ton and today $5.80 per ton on butt-weld pipe sizes and $2.40 and $3.80 per ton, respectively, on lap-weld pipe sizes. Freight absorption to other cities in the Chicago territory varies with different freight rates. This freight absorption, together with increase in costs of manufacture, due mostly to wage adjustments, and the fact that we could not foresee any possible immediate relief, were responsible for our decision to withdraw from the Chicago territory.

Mr. FLANDERS. What were the dates of withdrawal?

Mr. KEFAUVER. He says April 1946. Then there is other evidence of withdrawal by other companies, all set forth in this report submitted by the distinguished Senator from Pennsylvania [Mr. MARTIN].

In further response to the inquiry of the Senator from Vermont, looking at the map, and considering the amount of steel used throughout the United States, the Senator's State would actually get a better price on an f. o. b. basis, because in delivering steel to Vermont, the shipping distance, on the average haul from Pittsburgh, the nearest basing center, to Vermont, I am certain, is shorter than the average throughout the United States. So the Senator from Vermont and his manufacturers are actually paying part of the freight rate for hauling to more remote places in the United States.

I think the Senator would find these two reports to be of great assistance in helping him reach a decision in this matter.

Mr. FLANDERS. Mr. President, may I ask the Senator whether the advantage of moving out of Vermont does not still remain?

Mr. KEFAUVER. I think it would be more advantageous to stay in Vermont on an f. o. b. basis than to sell under the basing-point method. After all, the freight is paid anyway by the customers. It is merely a matter of who is nearest the basing point.

Mr. FLANDERS. The freight is not paid by the customers in a competitive situation. Competition and the quality of the goods determines the price of the product, and the freight either adds to or decreases or seriously affects the profits.

Mr. KEFAUVER. What I meant to say was that the freight on shipping anywhere is calculated, and is added to the price of the product. But I wish to call attention to the fact that the record shows, in that connection, that although a product may be shipped by water or may be shipped by some other method, the rail freight rate is always added in calculating the basing-point price. The point I make is that in the average use of steel, Vermont would be infinitely better off on an f. o. b. basis than under a basing-point price system, and I think these reports very definitely show that to be so.

I may say, however, that that is an academic question. I am not advocating the abandonment of independent, noncollusive, nonsystematic use of basing-points. If any company wants to sell on that basis, it has a perfect right to do so, under the law, today. No one is going to prosecute them, no one is going to complain. There is no Supreme Court case, or decision of any other court in this country, that can be pointed out as prohibiting the independent, nonsystematic use of the basing-point principle. What we do not want to do is to allow producers to get together and conspire, either by actual conspiracy or by systematically using the same prices, in order to defeat competition and create unfair business conditions.

Mr. FLANDERS. Mr. President, will the Senator yield?

Mr. KEFAUVER. I yield to the Senator from Vermont.

Mr. FLANDERS. In the first place, I completely accept the principle which the Senator has just enunciated. In the second place, I wish to say that we are now in a favorable position with our competitors who work under the shadow of the steel mills of Pittsburgh, Cleveland, and Gary. We are now in a favorable living condition with them, and if that condition disappeared, we would be seriously handicapped.

Mr. CAPEHART. Mr. President, will the Senator from Tennessee yield to me?

Mr. KEFAUVER. I yield to the Senator from Indiana.

Mr. CAPEHART. I wish to call the attention of the Senator to the testimony of Mr. Wooden as it appears on page 147 of the public hearings. On Wednesday, May 19, 1948, the Federal Trade Commission, in Washington, issued a release which was published in every newspaper in the United States, at least a great majority of them, under the headline:

Court holds basing-point method of pricing unfair, irrespective of conspiracy.

In view of the fact that the Federal Trade Commission gave out that release, which was published, is there any wonder that there is confusion in the minds of the businessmen of America as to whether or not they can do what both the able Senator from Tennessee and I agree they should do, namely, charge all the transportation costs, acting independently?

Mr. KEFAUVER. The Senator did not read Mr. Wooden's answer. I read:

Mr. WOODEN. The Court held the basing-point system unlawful under the circumstances in which it was used.

Mr. CAPEHART. Where is that answer?

Mr. KEFAUVER. That follows the Senator's question.

Mr. CAPEHART. The question was, "Is that a true statement?" The answer was, "I would say it is not actually accurate." But the fact remains that they issued the release, and the headline was, "Court holds basing-point method of pricing unfair irrespective of conspiracy."

Mr. KEFAUVER. I think that as long as we live in a country where we have a free press, we will find that headline writers will describe something that happens in various and sundry ways.

Mr. CAPEHART. The Federal Trade Commission prepared the release themselves. It was their own release. They were their own words. They were not the words of a newspaperman.

Let me call the Senator's attention, further, to another matter, and then I shall not bother him further. On page 243, at about the center of the page, will be found this question which I asked:

Is it legal for an individual cement company to pay the transportation charges to any point in the United States?

Mr. WOODEN. The question cannot be answered categorically.

Now is there any wonder that confusion exists?

Mr. KEFAUVER. Is that on page 243?

Mr. CAPEHART. Yes, about the center of the page.

Mr. KEFAUVER. Of course, it would be necessary in connection with such a question, to have some explanation as to whether all the other companies were doing the same thing.

Mr. CAPEHART. The question was:

Is it legal for an individual cement company to pay the transportation charges to any point in the United States?

Mr. Wooden, instead of answering that it was, as the Senator and I agree it should be, and as we believe it should be today, said he could not answer the question categorically.

Mr. KEFAUVER. He said he could not answer it categorically. He would have to add: "Providing they were not all doing it in the same way."

Mr. CAPEHART. His answer is:

It has to be considered in the light of the history of this industry, and the history of the practice that you are asking about, and whether or not they are, in fact, continuing the same thing as before, only calling the action individual and independent.

Then I continued to question him and I said, in effect, "Let us forget the cement business, then, and talk about any other line of manufacturing," and his answer was the same, that he could not say.

Mr. KEFAUVER. I think his answer in that case is a correct answer.

Mr. LONG. Mr. President, will the Senator yield?

Mr. KEFAUVER. I yield.

Mr. LONG. Is not Mr. Wooden's statement what everyone understands the law to be?

Mr. KEFAUVER. I think it is.

Mr. LONG. If the cement producers are told to quit using the monopolistic and conspiratorial methods and practices which they have been using, and a company here and a company there then proceeds to absorb freight in such a way that it is obviously being done in the same old way, the same old thing being done over again, excepting that it is being done independently, and the result of the continuation of the same practice is the selling of the product at identical high prices, would not the purport of Mr. Wooden's statement be that when all absorb freight together, it obviously is an illegal practice, since it results in the same situation as heretofore existed?

Mr. KEFAUVER. I should also call attention to the fact that at the bottom of page 245 Mr. Wooden, in answer to a question as to whether they could absorb freight acting independently, said:

Mr. WOODEN. Yes; I would like to add to that, however, that he can also make his delivered prices as freely as he wants them, if they make due allowances for differences in cost of delivery resulting in a uniform mill net.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. KEFAUVER. Yes.

Mr. LONG. I ask the Senator if he does not agree that that is exactly the way he, as an attorney, understands the law, the way I understand the law, the way the Senator from Indiana, who talks about confusion, understands the law, the way Mr. Wooden understands the law, and the way the senior Senator from Wyoming understands the law? So what is the confusion about?

Mr. KEFAUVER. I am glad the Senator asked the question. So far as I am concerned I cannot see any confusion. But we are going to get into confusion beyond question, beyond explanation and beyond doing anything about it, if we pass a bill which many Members feel does not mean anything and which we feel it is absolutely unnecessary to pass. The existing law is plain to us all. Everyone knows what it is. The Senator from Indiana knows what it is. The Senator from Louisiana knows what it is. The Federal Trade Commission knows what it is. The courts have stated it clearly.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. KEFAUVER. I yield.

Mr. AIKEN. I have been interested in the debate and search for the location of the confusion. I have a little bit of that confusion myself. As I have listened to the arguments pro and con, the argument seems to be made, respecting the rural areas and the more thinly populated States, that unless this basing-point bill goes through, the fabricators and manufacturers of the thinly populated States will all pack up and move to Pittsburgh in order to obtain the advantages of the low freight rates. Then, as I listen a little more, I find that the people of Pittsburgh and other great manufacturing cities are told that if the basing-point bill does not go through, the great corporations will decentralize and locate their factories all over the United States—in the more thinly populated areas.

I should like to know which, if either of those two arguments, is correct because it cannot be that both are true. We cannot have all the independent plants moving to Pittsburgh and other great manufacturing centers, and the great manufacturing industries decentralizing and locating their plants around through the country, all at the same time. Both the independent plants and the great manufacturing industries might as well remain where they are. If the big corporations are going to break up and locate their plants all over the country, and if the small independent plants are going to pack up and move to Pittsburgh, confusion would result. Can the Senator enlighten me on that point because I think I am entitled to share a little of the confusion after listening to the two arguments?

Mr. KEFAUVER. I appreciate the observation of the distinguished Senator from Vermont. It is a very pertinent one. Of course, the matter he is discussing is not in issue here because, actually, as we have all said, if the bill is not passed, there is nothing to prohibit the nonsystematic, nonconspiratorial absorption of freight rates. But getting to the basis of what the Senator suggests, I feel that without the use of the basing-point-pricing system there would be a better development of the natural resources of the Nation.

Mr. AIKEN. Nearer the sources of the resources?

Mr. KEFAUVER. Nearer the sources of the resources. I think, for instance, a steel mill in Texas which might go into business and get the market in that section and save the businesses there some money on the delivered steel would be more apt to develop its product if it knew it was not going to have to go into competition with a systematic freight-absorption method whereby the Texas steel company might be undersold and put out of business. I think there would be generally a more healthy development of the natural development at the places of the resources if companies knew they were not going to have to meet such crippling competition.

Mr. AIKEN. Perhaps I should have said, "nearer the markets" rather than "nearer the sources of supplies."

Mr. KEFAUVER. Well, between the market and the source of supplies and resources.

Mr. AIKEN. Does the Senator believe that if we eliminate the Pittsburgh-plus system which has been in operation for so long, the result will more likely be diffusion or decentralization of industry rather than a concentration of it in a few great industrial areas?

Mr. KEFAUVER. Yes. Of course Pittsburgh-plus has been theoretically eliminated for some time. Its partial elimination did have that result. But if it were completely eliminated that would be the result, in my opinion.

Mr. HILL. Mr. President, will the Senator yield?

Mr. KEFAUVER. I yield to the distinguished Senator from Alabama.

Mr. HILL. Is it not true that Dr. Fritz Machlup, professor of political economy at Johns Hopkins University, made a statement before the House Small Business Committee on July 6 last, in which he called attention to the confusion to which the Senator from Vermont has adverted, and stated that a small group of business managers had organized a publicity campaign for the very purpose of creating confusion?

Mr. KEFAUVER. Yes.

Mr. HILL. Is it not true that Dr. Machlup suggested and urged that Congress investigate this campaign to ascertain just what has been done, the propaganda which has been gotten out, the money which has been spent, the means which have been resorted to in order to create this very confusion?

Mr. KEFAUVER. Yes, that is correct. I am sure he has many facts to back up his statement.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. KEFAUVER. I yield.

Mr. AIKEN. Is it not proper to assume that unless big business felt that the failure to enact this type of legislation which they advocate would be very helpful to their smaller independent competitors, they would not be working so vigorously to have the pending legislation passed? Is not that on the face of it evidence that the small independent industries are more likely to be benefited by killing this bill?

Mr. KEFAUVER. The Senator is absolutely correct.

Mr. CAPEHART. Mr. President, will the Senator yield?

Mr. KEFAUVER. I yield.

Mr. CAPEHART. In the first place, let me say that there is absolutely no evidence anywhere that big business is behind the legislation. The record is full of the testimony of representatives of small business. There is no basis for the statement which the able Senator from Vermont has just made.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. KEFAUVER. I yield.

Mr. AIKEN. I have received communications favoring this bill which were unmistakingly from the element which I consider to be big business.

Mr. CAPEHART. The Senator may have received some, and I have received some. But the point is that the record is full of the testimony of witnesses representing small business. It is the old argument that every time we want to prove something we take the exception to prove the rule, and we take a slap at so-called big business when we have no other arguments to use.

Mr. KEFAUVER. I think Mr. Olds, chairman of United States Steel, did a very unsavory thing in the way they met the decision in the Cement case. In the first place, Mr. Olds was quoted as saying that the steel interests would have to seek remedial legislation or "educate the Supreme Court." Then immediately, in order to try to alarm everyone, although steel prices were high, and they had obtained an increase, the steel companies started selling f. o. b., but still charged the same delivery-point price, although the delivery-point price necessarily had in it the costs which they had calculated for transportation all over the United States. That is what alarmed everyone.

Mr. HILL. Mr. President, will the Senator yield?

Mr. KEFAUVER. I yield.

Mr. HILL. Is it not true that the steel companies raised the price of steel $9 a ton?

Mr. KEFAUVER. That is true.

Mr. HILL. Is it not also true—as I recall, Mr. David Cushman Coyle brought it out in his statement before the Small Business Committee of the House—that United States Steel is the largest owner of cement production in this country?

Mr. KEFAUVER. I think that is correct. He did say that. I do not know whether it is true, but I think it is.

Mr. LONG. Mr. President, will the Senator yield?

Mr. KEFAUVER. I yield.

Mr. LONG. Will not the Senator agree with me that the example which I shall give is a good indication that this is the bill of big business? The labor unions which the Senator from Indiana mentioned yesterday, at Springhill and Bastrop, La., were writing me to vote for the basing-point bill on the ground that if the bill were not enacted the International Paper Co. would move its mills from Bastrop and Springhill, although the International Paper Co. itself did not write. I answered in a noncommital fashion, stating that I would study the bill, and that I was impressed by the fact that labor unions would go to bat for the International Paper Co. A representative of the International Paper Co. wrote to me and wanted to know exactly how I stood on the bill, so that he could advise the company. Is not that a very good indication that the labor unions, whose members probably do not understand the bill, are acting merely at the behest of the International Paper Co., which is too subtle and shrewd to come out in the open?

Mr. KEFAUVER. I think so.

Mr. CAPEHART. Mr. President, will the Senator yield?

Mr. KEFAUVER. I yield.

Mr. CAPEHART. The record contains many dozen telegrams and letters from labor unions. There is much direct testimony in the RECORD from those representing labor unions. Am I to understand that the able Senator from Louisiana contends that those labor union representatives are hypocrites, and that they did not mean what they said, that they came to the hearing merely because some big fellow asked them to do so, and that from now on we cannot depend upon the testimony of a labor union representative because someone else is telling him what to say? Does the Senator want to leave the impression that when Mr. Schaeffer, the head of the railroad union from Cedar Rapids, Iowa, who said he was representing 1,000,000,000 railroad workers, testified, he was representing some big business, and did not mean what he said? Does the Senator mean that we should not take him at his word?

Mr. KEFAUVER. The Senator from Louisiana is well able to take care of himself, and I yield to him.

Mr. LONG. Mr. President, when cement workers are trying to have good relations with the cement companies and gain concessions, if the cement companies say, "We are going to have to pull out our plant and move unless the basing point bill is passed," does not the Senator agree with me that it is entirely logical for those men, fearing loss of their jobs, to say, "Certainly, we will write to our Senators and Representatives and try to help you. By the way, how about a little increase in wages?" Would it not seem logical that the International Paper Co., with the two most profitable mills in the world located in Louisiana, would call their labor union representatives in and say, "Boys, we have got along fine, and paid you high wages. We are going to ask one minor concession of you. We are going to have to move out of Louisiana if this bill is not passed." Would it not seem logical that the labor unions, without knowing what this is all about, would write in and say, "Senator, won't you please vote for this bill?"

Mr. KEFAUVER. First, let me make a statement in answer to the Senator from Louisiana. I do not think it would seem logical that they would write or send telegrams to their Senators. I think the logical thing to do, and what I would have done were I in their place, would be to catch the first plane or the fastest train to Washington. Instead of writing or sending a telegram I would come to Washington and see my Senator and appear before the Capehart Committee, which was investigating the matter. I suppose that is the reason why a great many of such representatives actually appeared at the hearings before the Capehart Committee.

Mr. CAPEHART. Mr. President, will the Senator yield?

Mr. KEFAUVER. I yield.

Mr. CAPEHART. Yesterday the able Senator from Louisiana praised Mr. Brubaker, the economist representing the CIO steel workers, as a great man, a great authority. He approved his statements on this subject because he was opposed to the bill. He considered such statements the last word. We must accept the word of Mr. Brubaker, the economist representing the steel workers.

Now the able Senator from Louisiana rises on the floor and says that the testimony, the telegrams, and the letters from local unions in his own State are worth nothing, that those individuals know absolutely nothing about the question. They did not know what they were doing. They were misinformed. He wants us to throw their testimony out as irrelevant, and, I presume, as being untrue, because he says they knew nothing about what they were doing. In other words, when it suits the purpose

of the able Senator from Louisiana to use the testimony of a labor-union representative he does so. When it does not suit his purpose, then he says it is irrelevant, and that labor-union representatives do not know what they are talking about. He says that they were misinformed. That has been my observation of the argument against this legislation all the way through.

Mr. LONG. Mr. President, will the Senator yield?

Mr. KEFAUVER. I yield.

Mr. LONG. I should like to ask the Senator from Tennessee a question. Does he not appreciate the distinction between a man like Mr. Brubaker, who is the economist for the CIO, who has studied this question and understands it, and who says that this is a very bad bill, who refuses to be scared or bulldozed because all the steel companies claim they are going to move somewhere else, and some man who has not had a day in college, but who is told he is going to lose his job unless this bill is passed? Cannot the Senator see the difference between the understanding of those two men?

Mr. KEFAUVER. I think any Senator could see the difference.

We were talking, I believe, about the Rigid Steel Conduit case. We had discussed the conviction under count 2 of the indictment in that case, which alleged a systematic price system, although there was no actual proof that the producers had got together and conspired. That conviction, sustained by the Seventh Circuit Court of Appeals, was upheld by the Supreme Court. Let us see what that conviction means. It is not so difficult to answer this question as the proponents of the basing-point legislation allege. In truth, the answer seems clear to anyone who understands the objectives of antitrust legislation. Section 5 of the Federal Trade Commission Act gives the Federal Trade Commission and the courts authority to designate as unfair, trade practices which unreasonably restrain trade or lead to monopoly

In the Rigid Steel Conduit case the Commission found—and the court confirmed the finding—that for any seller to quote prices under a basing-point system with the knowledge that his rivals are doing the same thing and with the result that such practices eliminate competition among them is an unfair trade practice. Apparently, neither the Federal Trade Commission nor the Court believe that monopolists are sleepwalkers. If they know where they are going, Congress having outlawed their goal, the Commission says their journey is illegal. What the proponents of S. 1008 propose to do is to legalize the elimination of price competition among rival sellers who, although they do not specifically agree to adopt a pricing method for the purpose and with the effect of eliminating competition, adopt it even though its concurrent use will in fact eliminate price competition. What Congress proposes to do in adopting S. 1008 is to legalize a procedure that achieves an unlawful end.

Monopoly stands condemned under section 2 of the Sherman Act, but if achieved through independent basing-point pricing, it is now to be legalized under section 5 of the Federal Trade Commission Act. And thereby confusion is to be eliminated.

Not only does the pending bill contradict or emasculate section 2 of the Clayton Act under certain circumstances, but it simply circumscribes the Federal Trade Commission's power over monopoly under section 5 of the Federal Trade Commission Act as it now stands.

So, Mr. President, in conclusion, let me say that there can be no doubt or question as to what the law is today. No Member of Congress argues or will say that he thinks the decision in the Corn Products case, the decision in the Staley case, the decision in the Rigid Steel Conduit case, or the decision in the Cement Institute case is wrong. As a matter of fact, the Capehart committee itself said that the decision of the Supreme Court in the Cement Institute case was wholesome and was fully justified. These correct decisions protect competition and protect the antitrust laws. No one argues against the results these decisions have brought about or against their correctness.

Then, what is all this about? Why are certain persons in this country trying to promote this proposed legislation in order, as they say, to eliminate confusion, when there is no confusion, when everyone who is not favoring the monopolists agrees that those Supreme Court decisions are correct? I am afraid that what they hope to do is to circumscribe, by indirection, to emascuate in a roundabout way, the antitrust laws of the United States. They know they cannot do so by direct attack; they know they cannot secure the adoption to the Sherman Act, the Clayton Act, or the Federal Trade Commission Act of any amendments which will lessen the protection those acts give today to businessmen and to industries, and particularly to the small-business men of the Nation.

Mr. President, dangers do arise under Senate bill 1008, and I wish to point them out. In the first place, there is a great danger that if section 1 of the bill is included in the law, the Rigid Steel Conduit case decision will become a nullity. In that event there is great danger the decision in the Corn Products and Staley decisions will become ineffective, and then no longer will it be possible to convict a group of persons or companies because they adopt a system of identical prices and a system of absorbing freight in order to do so. There will be doubt that it will be possible to convict persons who use absorption of freight practices, by means of freight-rate books from which they make their calculations, to arrive at identical prices. I fear that would be the result.

In connection with section 2, there also is the difficulty that under section 2 of the Clayton Act, which is the Robinson-Patman Act, it is not now permissible to engage in certain kinds of practices the effect of which will be to lessen, damage, or destroy competition or to create monopoly. The Carroll amendments in connection with the absorption of freight and the determination of delivered prices, I think protect fairly well the restrictions of the Robinson-Patman Act, section 2 of the Clayton Act. But unless the Carroll amendments are adopted, even if the amendments proposed by the junior Senator from Tennessee, and adopted by the Senate, were placed in the law, there would be some decrease in protection to small businesses and industries, under section 2 of this bill, because the amendment I proposed, and which the Senate adopted, was not so broad in its prohibition as are the Carroll amendments.

Section 3 is the enforcement provision for section 2.

So, Mr. President, those are my objections to the bill.

It has been said that this bill does not mean anything, that it simply restates the present law. Of course, Mr. President, I do not think it is simply a restatement of the present law. To the contrary, I think it whittles away our antitrust laws. Nevertheless, the Supreme Court will be bound to take the point of view that, after all, the Senate did not spend 3 days and the House of Representatives did not spend 2 days—a considerable part of their valuable time—in passing a bill which does not mean anything.

Mr. President, certain industries and certain trusts were complaining about the Cement decision, and no doubt the Court would take the position that the Congress must have meant to change the result of the Supreme Court's decision in the Cement case or the Court's decision in the Rigid Steel Conduit case. That is my fear. I think this bill may do very real harm. Since it is agreed that all difficulties now are cleared up, since it is agreed that there is no confusion, since the Federal Trade Commission has stated what it is doing in definite terms, and since all of us agree with what it is doing, and even the Senator from Indiana [Mr. CAPEHART], agrees, therefore, Mr. President, since all confusion has been eliminated, certainly we should take every possible step to defeat this bill.

Mr. LONG. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER (Mr. O'MAHONEY in the chair). Does the Senator from Tennessee yield to the Senator from Louisiana?

Mr. KEFAUVER. I yield.

Mr. LONG. Has the Senator heard the oft made statement, which has been written in books and has been documented elsewhere, as I understand, to the effect that the big cement companies paid $5,000,000 in attorneys' fees alone in defending that case, in an attempt to violate the antitrust laws and to continue the basing-point system?

Mr. KEFAUVER. I have heard that. I know that various industries and trusts interested in this proposed legislation have put on a terrific campaign for its enactment, have spent tremendous

amounts of money for that purpose, and have tried every way in the world they could to influence the Members of the House of Representatives and the Members of the Senate to vote for it. They have gotten many small-business men excited; they have even raised prices in order to frighten them. As the Senator from Louisiana has said, they even have gotten members of labor unions to write letters or send telegrams to Members of Congress. It is obvious that people do not go to such lengths unless they have some purpose in doing so.

Mr. LONG. Mr. President, if the Senator will further yield, let me ask another question. If it was worth $5,000,000 in attorneys' fees to the cement companies just to lose the case, would not it seem to be worth hundreds of millions of dollars to them to be able to continue the basing-point practice?

Mr. KEFAUVER. I am sure it would be. Of course they do not make investments unless they know what they are doing.

Mr. LONG. Mr. President, will the Senator further yield?

Mr. KEFAUVER. I yield.

Mr. LONG. Would it not seem apparent in this case that if these companies or individuals have to give the public the benefit of competition, their loss in excess profits at least would be the public's gain in the long run?

Mr. KEFAUVER. Undoubtedly it would be.

Mr. LONG. I wonder whether the Senator from Tennessee agrees with a statement made by Edward Lawrence Merrigan in an article appearing in the Loyola Law Review, volume 5, No. 1, 1949—

Mr. KEFAUVER. That is an excellent article; I have read it.

Mr. LONG. I wonder if the Senator agrees with this statement, appearing on page 47:

> It is submitted that the Federal Trade Commission has not displayed a tendency to require the use of f. o. b. selling by all American businessmen. To date it has prosecuted the delivered-pricing methods only where they were found to have brought about the elimination of competition and/or to have been maintained by agreement and conspiracy among sellers. The Commission has never prosecuted a single seller for having absorbed freight, in good faith, to meet an equally low price of his competitors. In its official policy statement, the Commission indicates that it does not intend to do so in the future.

Does the Senator from Tennessee agree with that?

Mr. KEFAUVER. I do.

Mr. President, let me ask, what are the proponents of this proposed legislation complaining about? Do they complain against the Federal Trade Commission because it prosecuted the Corn Products Corp.? No. Do they complain because the Staley Corp., which had adopted an identical basing-point system, was prosecuted? No. Do they complain because the 14 corporations which were using the same systematic pricing system and had their freight-rate books published, were prosecuted in the Rigid Steel Conduit case? No. Do they complain because of the prosecution of the Cement Trust, which resulted in the Supreme Court's decision? No.

Well, Mr. President, what prosecution is it that they complain about? What is all the shouting about in this case, anyway? They talk about the Federal Trade Commission; yet they refuse to point out one case in which the Commission should not have prosecuted.

I agree with the Senator from Louisiana that the Federal Trade Commission has never brought a complaint against a corporation which was engaged in the use of a basing-point system unless that system was used to injure or destroy competition.

Mr. LONG. Mr. President, will the Senator yield for a further question?

Mr. KEFAUVER. I yield.

Mr. LONG. I wonder whether the Senator has seen, and whether he agrees that the statement I am about to read is a correct statement of the effect of what the Federal Trade Commission has been doing. It is a statement appearing in Loyola Law Review, 1940, volume 5, No. 1, at page 48. It reads as follows:

> Accordingly, it—
>
> Meaning the Commission—
>
> will not question such differences in the prices of a single enterprise as are merely designed to meet the readily foreseeable competition of a competitor where such differences involve no tendency to create a monopoly or eliminate price competition, nor will it—
>
> The Federal Trade Commission—
>
> question reciprocal price reductions similarly designed where their scope is not such as to preclude variety of delivered prices and raise the problem of collusion. It will challenge discriminatory price reductions which are made to meet nonexistent competition or which involve reciprocal relationships so comprehensive that through them price competition in the industry disappears.

I ask the Senator, in view of that clear declaration by the Federal Trade Commission, he can see anything in the world that an independent producer quoting delivered prices and acting independently in good faith would have the least thing to worry about?

Mr. KEFAUVER. No, I do not think so. There is nothing for him to worry about. Furthermore, as all Senators know, when this matter was before the Committee on Interstate and Foreign Commerce of the Senate, at the time it was investigating absorption of freight, the Federal Trade Commission made a declaration of policy, entered formally in the records of a committee of the Senate, in which they said they did not interpret the decision in the Cement case, or any other decision, as requiring them to prosecute any corporation which independently and nonsystematically absorbed freight, and that they were not going to bring any complaints against any corporation because that was done. I do not know; I am really at a loss to see any good reason why this bill should be further pursued.

Mr. LONG. Mr. President, will the Senator yield for a further question?

Mr. KEFAUVER. I yield.

Mr. LONG. Is the Senator cognizant of the fact that the basing-point system has a direct connection with the extremely high freight rates we are compelled to pay in the South and the West? Has the Senator seen the statement prepared by certain economists and by members of the Federal Trade Commission, conclusively proving that the Birmingham mills wanted to reduce transportation charges into New Orleans, but the pressure of the northern steel companies upon the railroads, even after the southern railroads had proposed to make the reduction, prevented that reduction from being made, with the result that for the past 9 years New Orleans has been paying an extra $3 a ton for every ton of steel delivered in that city?

Mr. KEFAUVER. I have not seen that statement, but I have seen other statements to that effect, and I know that is true.

Mr. LONG. Mr. President, will the Senator be so kind as to insert the statement to which I refer in the RECORD at this point?

Mr. KEFAUVER. I ask unanimous consent that the statement supplied by the distinguished Senator from Louisiana [Mr. LONG] be inserted in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KEFAUVER. I should like also to say that unquestionably, with respect to the systematic freight-absorption method which is being proposed, it is the hope of certain industries that want to continue using this method to escape the effect of certain of the antitrust laws by legalizing the operations in which they have been engaged. These companies are rather difficult to deal with. The old Pittsburgh-plus basis was broken up, but what was done then was to establish regional basing points; for example, Birmingham, Ala. But what the steel trust did then was to require Birmingham to sell at such a high price that it amounted to about the same thing; so, the South, including the Birmingham area, secured very little advantage from the victory of the Federal Trade Commission in breaking up the old basis of Pittsburgh-plus.

Mr. President, in conclusion, my position is that the bill should be defeated. Of course, a favorable vote on the motion of the Senator from Louisiana [Mr. LONG] would be required, but, if the bill is to be passed, the minimum protection which can be granted is the adoption of the Carroll amendments. I shall be extremely fearful of the result of the bill, even with the Carroll amendments included in it, because I cannot see that any good can come from it. I know that its purpose is to weaken and to emasculate the antitrust laws to the greatest possible extent. I do not mean that is the purpose of its sponsors in the Senate, but it is the purpose of the great lobby that is behind the bill. I know the small-business men of the Nation are going to suffer, and suffer badly, if this legislation is enacted, because of what may be done under it by monopolists who are interested in its passage. So in the interest of our antitrust laws and in the interest of small-business men, I urge the Senate to defeat this measure and to

agree to the motion of the distinguished Senator from Louisiana.

EXHIBIT 1

THE BASING-POINT SYSTEM KEEPS SOUTHERN FREIGHT RATES HIGH

The basing-point system gives certain large eastern manufacturers reason for exercising their powers to keep freight rates high in the South, even when the rates apply only on internal shipments within the southern territory. This fact was richly demonstrated in the evidence introduced in the Department of Justice suit against the railroad associations in 1944.

In 1939 the southern railroads proposed to make substantial reductions in their freight rates on steel shipped from Birmingham and other southern points to New Orleans and other gulf and river cities. The eastern steel producers, acting through the pressures they were able to put upon the Association of American Railroads, were able to block the proposal of the Southern Freight Association.

The proposal of the southern roads for reducing their rates arose when they discovered that the United States Steel subsidiary at Birmingham was planning to build barges for transporting their steel by water to Mobile, New Orleans, and other southern cities along the Mississippi River. Rather than see their traffic lost to water competition the southern roads approached the Birmingham company and proposed certain rate reductions if the company would abandon its plans for building barges and continue to use rail shipments. The Birmingham company agreed to this. provided the rate from Birmingham to New Orleans could be reduced from 37 cents to 22 cents, a reduction of 15 cents per 100 pounds, or $3 per ton. Whereupon the southern roads drew up a proposal to make this reduction and to make proportionate reductions in the rates from all the other southern steel-producing points, so that other producers who did not have access to water transportation would be equally benefited. Thus the Southern Freight Association approved a proposal to reduce the rates on shipments of steel products from southern production points and from the Mississippi and Ohio River crossing points to the various gulf and river ports. The points which were to receive rate reductions included, in addition to Birmingham, the cities of Atlanta, Chattanooga, Knoxville, St. Louis, Memphis, Newport, Ky., as well as the several other cities where steel products are made.

When word of this proposal got around, however, Mr. A. F. Cleveland, then vice president of the Association of American Railroads, wrote letters to Mr. Kerr, chairman of the Southern Freight Association, and to the corresponding heads of the Western and Southwestern Associations, requesting them to meet with representatives of roads in official (eastern) territory, and also requesting that the southern roads not docket the proposal with ICC before such meeting took place.

The first meeting called by the AAR on this subject was held at the Palmer House in Chicago on November 16, 1939. At this meeting the proposal of the southern roads was turned down, and during the subsequent year numerous other meetings were called at which successive compromise proposals advanced by the southern roads were also turned down. These were all proposals which would have had only the slightest effect, if any effect at all, upon the traffic and revenues of any of the eastern railroads; they were proposals of the southern roads to lower internal rates in the South to benefit their own business and to benefit the southern steel producers and their southern customers. Moreover, at the second meeting on this subject, called by the AAR on November 29, it became unmistakable to everybody concerned that the opposition to these proposed rate reductions in the South was coming from the eastern steel producers. Mr. Tilford, vice president, Louisville & Nashville Railroad, who attended this meeting, wrote, on December 4, as follows:

(Exhibit G–709: Memorandum for files—December 4, 1939—Tilford, vice president, Louisville & Nashville Railroad. Subject: Dates on iron and steel articles from southern producing points, Portsmouth and St. Louis to Mississippi River crossings and Gulf ports.)

"Conference arranged by Vice President Cleveland was held in Chicago on November 29 to consider the proposed adjustment described in the caption and the objections of the official-territory carriers thereto. At the beginning of the conference the southern carriers asked that the proposal be divided and that first consideration be given to the rates to Gulf ports, following which separate consideration could be given to the proposed reductions to the Mississippi River crossings, and the conference agreed to this.

* * * * *

"The discussion indicated very clearly that the objections of the official-territory roads originated with the northern shippers (northern steel producers) now using water service to the Mississippi River crossings and Gulf ports since the delivered prices would be affected by a reduction in the rates from Birmingham, the sales practice being to use Birmingham base price, plus rail rate from Birmingham." [1]

The point to the last quoted paragraph of Mr. Tilford's memorandum is that under the basing-point system delivered prices for steel at New Orleans (and at all other southern cities as for that matter) are computed as the price at Birmingham, plus the all-rail freight costs from Birmingham. Thus, all producers who sell at New Orleans, no matter where their plants are located, sell at this predetermined delivered price. Therefore, if the rail rate from Birmingham to New Orleans were reduced by 15 cents, the result would automatically be a 15-cent reduction in the delivered price of steel at New Orleans. Such a reduction would not affect the rates or volume of business of the eastern roads; nor would it affect the costs of the eastern steel producers, since they were shipping to New Orleans by water anyway. But the lowering of the delivered price by 15 cents would result in these eastern producers getting 15 cents less profit on each 100 pounds of steel they sold in New Orleans.

But the fact that the eastern steel producers were behind this discriminatory interference in southern business had already become clear to some even before the first meeting on November 16. Mr. Kerr, of the Southern Freight Association, had already received, on November 4, a threatening letter from Mr. Crawford, general traffic manager of the Bethlehem Steel Co.[2] Bethlehem Steel, with its plant at Sparrows Point, Md., is obviously in a good position, under the basing-point system, to profit by water shipments to southern port cities.[3] Moreover, Mr. Kerr had received a letter on November 8 from a representative of the eastern railroads which made it plain that the eastern steel producers had been threatening the eastern railroads and pressuring them to get to work and stop the southern railroads from reducing rates. The part of Mr. Lawrence's letter, which is a matter of court record, reads as follows:

(Exhibit G–706: Letter, November 8, 1939, from Lawrence, chairman, Traffic Executive Association, eastern territory, to Kerr, chairman, Southern Freight Association. Subject: Rates on manufactured iron and steel between southern points.)

"Your submittal 20597–W is stirring the animals up very vigorously in our territory. I fear if you should do what this proposal suggests it would cost the eastern carriers more revenue than the southern carriers get on all of their manufactured iron and steel articles. Mr. Cleveland has this down for discussion at Chicago on November 16. I urge you to see that no action is taken in the meantime." [4]

In short, the eastern railroads are able to interfere in the decisions of the southern railroads because of their power to control the AAR, their power to divert traffic from the southern roads, and their power to perform many other small and large coercive acts against their weaker associates. And the eastern steel producers (and their allied cement producers, too) are able to control the policies of the eastern railroads through their common financial backers and through their ability to take a great deal of traffic away from the railroads and ship by water carrier—which would be cheaper, anyway.

One further letter from Weirton Steel Co., at Pittsburgh, to Mr. Kerr, is of interest because of its frank and pleasant tone:

(Exhibit G–707: Letter, November 13, 1939, Morris, vice president, Weirton Steel Co., Pittsburgh, Pa., to J. G. Kerr, chairman, Southern Freight Association:)

"In connection with Southern Freight Association submittal No. 20597–W, being a proposal to reduce the rates on iron and steel articles to New Orleans, Mobile, Memphis, and other points:

"Of course, we have been very much opposed to this contemplated action on the part of the southern lines because it would be detrimental to producers in this territory, and, while it is true that these rates are to be reduced to meet water competition, in our judgment it seems to us that the southern lines should take no action of this kind until Senate bill 2009 has been finally disposed of. These reductions only tend to reduce the delivered price by reason of Birmingham being a base, and if the reductions are made we feel certain that the water carriers will reduce their rates so that the relationship now existing will continue, which action, of course, will not be beneficial to the railroads but will permit of the producers here being able to continue to do some business in that territory. Under the circumstances, we hope you will use your influence to have this action deferred, at least for the time being." [5]

The conclusion of the first meeting, on November 16, was an agreement on the part of the southern roads to postpone the filing of their proposal and to meet again for further discussions on November 29.

(Exhibit G–708: Letter, November 27, 1939, from J. G. Kerr, chairman, Southern Freight Association, to Morris, chairman, Central Freight Association:)

"Please pardon our delay in answering yours of October 26, file N–227–51–3020, requesting status of our submittal 20597, involving rates on iron and steel articles, carload, from Alabama, Georgia, and Tennessee points to Gulf ports. While this proposal stands approved in this association, publication has been withheld, and at meeting of

[1] Plaintiff's Trial Brief for the Court, Pt. II, Civil No. 246, in the District Court of the United States for the District of Nebraska, Lincoln Division; *United States of America, Plaintiff* v. *The Association of American Railroads, The Western Association of Railway Executives, et al., Defendants* (p. 700).

[2] Ibid., p. 699.

[3] That is, under the basing-point system this company can ship to southern markets by water and charge the customer rail freight. This practice is known as taking "phantom freight," since it means, for sales in the South, raising the company's net mill price above that charged eastern customers.

[4] Ibid., p. 699.

[5] Ibid., p. 700.

the Traffic Advisory Committee, A. A. R., at Chicago on November 16, the southern members, in response to request for a conference, agreed to discuss the matter with other jurisdictions in Chicago on November 29."

At the second meeting (November 29) the southern roads were unable to find any compromise proposal which would overcome objections of the eastern roads. Some time was taken up by the southern roads in pointing out that their proposal involved only the same reduction with reference to New Orleans and eastern Gulf ports that the eastern railroads had already made on behalf of the eastern steel producers with reference to shipments of iron and steel articles to Texas ports. By the end of this meeting the fiction that the eastern roads were speaking on behalf of their own traffic and revenues had been dropped, and it had become clear that they were speaking only on behalf of the eastern steel producer's profits on sales in the South. The eastern roads apparently became apprehensive of their success in negotiating on behalf of the steel producers, for they moved to have them brought into the negotiations directly. At the conclusion of this meeting the eastern roads proposed a joint meeting with representatives of the American Iron and Steel Institute. Mr. Tilford's memorandum of December 4, 1939, continues as follows:

"The northern lines declined to accept the compromise basis offered by the southern carriers to the Gulf ports and indicated the only amendment that would be satisfactory to them would be to confine the reductions to the rates from Birmingham to Gulf ports. The northern lines were pressed for an explanation as to why the southern situation to the Gulf ports was different from the northern adjustment to the Texas Gulf ports, but no such explanation was given. They insisted that the proposal of the southern carriers, even as amended, threatened the whole iron and steel adjustment, not only from the North to the South but within the North, and they were satisfied the iron and steel industry would not want these changes, nor a general disturbance of the iron- and steel-rate adjustment. They then suggested that a small committee of the northern lines and a small committee of the southern lines meet with a committee of the Iron & Steel Institute for a general discussion of the subject.

"The southern carriers were not prepared to commit themselves to such a conference but indicated that the suggestion would be taken under consideration and advice given just as early as practicable. It was understood if the conference is to be held it will be arranged by Mr. Cleveland and that the railroad committee will be as follows:

Official Territory Lines: Messrs. Franklin, Shumate, Brister, and Ewing.

Southern Lines: Messrs. Smith, Oliver, Law, and Koontz.[6]

It appears that Mr. Cleveland of the American Association of Railroads did arrange a joint meeting between southern and eastern carriers and the American Iron and Steel Institute, and the results may be judged, in part, from the southern representative's memorandum on this meeting, as follows:

(Ex. G 710: Memorandum for file, January 20, 1940, from J. G. Kerr, chairman, Southern Freight Association:)

"Conference called by Mr. A. F. Cleveland of southern, official, and western carriers and traffic representatives of iron and steel shippers was held in Chicago on January 16 for the purpose of discussing various proposals involving iron and steel rates, but with particular reference to S. F. A. Submittal 20597-W covering iron and steel articles from Birmingham and related origins to New Orleans and other Gulf ports. The proceedings to be issued by Mr. Cleveland will show the representation.

* * * * *

"Mr. Belsterling acted as spokesman for the United States Steel Co. subsidiaries. While he stated his position was neutral he indicated quite clearly that he could not find fault with the southern carriers in their effort to establish rates that might enable them to meet water competition. With the exception of Mr. Baker, representing the Andrews Steel Co., and Mr. McBride, representing Kokomo, Ind., producer, practically all, if not all, of the other iron and steel shippers strenuously opposed any reduction. There was a good deal of discussion regarding water movements down the Ohio and Mississippi Rivers which followed the statement that practically all of the iron and steel traffic to Mississippi River points and Gulf ports was now moving by water, although it was being sold on basis of rail rates. During this discussion it developed the charge for moving iron and steel, including pipe, from Pittsburgh to Memphis was $3.10 per ton, dock to dock, but that there was some expense incurred in moving to and placing on barge at origin and off barge at destination.

"The eastern lines strenuously opposed reductions from Birmingham and other origin points, and insisted that the reductions if made would seriously disturb the rate adjustment generally on iron and steel within official territory and particularly the rates from other producing points to North Atlantic ports when for movement beyond by water. We pointed out, however, that they had joined in the establishment of rates to Texas Gulf ports to meet water competition from southern origins without seriously disturbing their own rate adjustment and, further, we had had in effect for years rates from Birmingham and other producing points to Gulf ports when for movement beyond by water to Texas Gulf ports, export to Cuba, and to the Pacific coast via the Panama Canal, without bringing about any such disturbance."[6]

Another clear statement of the way in which high freight rates in the South serve the special benefit of eastern producers who practice the basing-point system is provided by the concluding paragraphs of a letter from Jones & Laughlin Steel Corp. in which this corporation vehemently opposed rate reductions to Memphis.

(Ex. G 714: Letter (copy) 8–2–40, from Graham, general traffic manager, Jones & Laughlin Steel Corp., Pittsburgh, to A. F. Cleveland, vice president, Association of American Railroads:)

"Summed up, it would seem that the proposed reduction from Birmingham to Memphis is predicated entirely on market competition. This, however, should not cause the carriers to deplete their earnings unless they are assured of a sufficiently increased movement to offset the heavy revenue loss they will sustain.

"From the above, you will see about the only ones that will benefit by this reduction will be the consuming trade in Memphis and they will receive an 11-cent reduction in their freight rate. On the other hand, the southern carriers would suffer revenue losses on traffic to Memphis of 11 cents per 100 pounds, or slightly more than a 35-percent reduction. Birmingham manufacturers would not benefit by the reduction since they would continue to receive the Birmingham base price for their steel, the same as competing producers. Pittsburgh manufacturer and those in other districts serving Memphis would receive 11 cents per 100 pounds less than they now receive for their products at Memphis."[7]

In other words, the traffic and revenues of the eastern railroads would be unchanged by this proposed rate reduction within the South and the costs of the eastern steel producers' sales to Memphis, would be unchanged, but the lower steel prices in the South would result in lower profit margins to these eastern producers. As the writer of this letter has said, "the only ones that will benefit by this reduction will be the consuming trade in Memphis and they will receive an 11-cent reduction on their freight." It is quite clear, of course, that an action which benefits nobody but the consuming trade is not worth while, and it would be better, from the point of view of this eastern manufacturer, that the southern railroads lose their business to water carriers rather than do anything that would reduce the basing-point delivered prices.

The philosophy that lower delivered prices for steel in the South benefits no one but the consuming trade is, however, a mistaken one. To the extent that lower prices in the South discourage eastern steel producers from selling in the markets there, southern producers, employing southern labor, can expand production to supply more of the steel requirements of these markets. And to the extent that lower prices in the South result in increased demand for steel, and products fabricated from steel, southern steel plants have a further opportunity for increased business. And finally, to the extent that lower prices for steel in the South result in new manufacturing business and increased industrialization, the more productive is southern labor, the better customer is southern business and consumers for the goods of the whole Nation, and the better off is both business and consumers in the entire Nation.

By August 5, 1940, after many meetings and much exchange of correspondence, the controversy between the southern railroads and the A. A. R. and eastern roads had narrowed down to a recognition that the issue was one of whether or not the southern roads make rate reductions for their benefit and the benefit of the whole South, but which, because of the workings of the basing-point fixed-price system, would result in eastern producers getting lower profit margins on their sales in the South. Mr. Kerr's r ply to Jones & Laughlin was as follows:

(Ex. G. 715: Letter 8–5–40, from J. G. Kerr, chairman, Southern Freight Association, to H. E. Graham, general traffic manager, Jones & Laughlin Steel Corp., Pittsburgh:)

"While the southern carriers have at all times been most considerate of the interests of producers in other sections, but who, for the most part, are moving their products to Memphis and other Mississippi River crossings by barge, frankly I do not see how they can be expected to simply forego transportation of iron and steel produced in the South by refusing to make necessary rate reductions, even though the result may be to change the selling prices."[8]

But then Jones & Laughlin replied to this letter by pointing out that the southern railroads "have profited by exorbitant freight rates on steel products," stressing the company's continued opposition to any proposal to reduce the relative exorbitance of these rates, but expressing a willingness, of course, to accept a "horizontal" reduction across the Nation which would give his company cost savings equal to the reduction in delivered prices which would be brought about in the South. In other words, eastern producers are opposed to any reduction in the discriminatory level of southern freight rates, as long as these producers sell their products on the basing-point system.

(Exhibit G 717: Letter (Personal), August 7, 1940, from Graham, general traffic manager, Jones & Laughlin Steel Corp., to J. G. Kerr, chairman, Southern Freight Association:)

"You know and I know that had the right kind of rates been made years ago, the steel industry would not today be large users of

[6] Ibid., p. 704.

[6] Ibid, p. 704.

[7] Ibid., p. 707.

[8] Ibid., p. 708.

the rivers. The industry then would have been glad to sit down with the railroads and work out some fair solution, but there was no reaction from the carriers at that time. Now if you bring out another spotty situation such as the one we are now discussing, you create no additional traffic—Memphis proper can consume only so much steel tonnage and where tonnage moves beyond Memphis the carriers certainly have profited by exorbitant freight rates—and I have in mind principally pipe that has moved via Memphis and rail beyond.

"If the carriers now would be willing to make a horizontal freight rate reduction on iron and steel articles, they would do more to recover business lost to both rivers and trucks than anything I know of. So please see if you cannot in some way avoid what you have in mind, and then work out with Mr. Cleveland and the northern railroads a new solution to the entire steel problem." [9]

At this point the strength of the southern roads' proposal begins to peter out, and Mr. Kerr writes to Mr. Cleveland in vague terms of the possibility for some kind of horizontal reduction at some indefinite time in the future.

(Exhibit G 718: Letter of August 12, 1940, from J. G. Kerr, chairman, Southern Freight Association, to A. F. Cleveland, vice president, Association of American Railroads:)

"I assume you have received copy of letter addressed to me under date of August 7, by Mr. H. E. Graham, general traffic manager, Jones & Laughlin Steel Corp., Pittsburgh. I am making no reply to Mr. Graham as I feel it would be best to put the matter 'on the shelf' until about the middle of September. We have a good deal of trucking of iron and steel within southern territory and it is growing very fast, so it may be that sooner or later we will have to do something with our own rate adjustment. It is not unlikely that the official territory lines will come to the same conclusion, although the immense tonnage still moving by rail within that territory may result in putting the matter off for some time. If it should happen that the rate adjustments within both official and southern territories are revised, there is probably no escape from revising the interterritorial rates. Then, again, we have the probability of certain southwestern lines bringing about a general reduction within their territory which in turn would affect the interterritorial rates." [10]

Finally, on September 27, 1940, after almost a year of negotiations, the correspondence comes to a close with an excerpt from a memorandum from one southern representative to another in which it is proposed to make certain selected reductions for the special benefit of the United States Steel Corp. at Birmingham. Reduction on only sheet and wire products are proposed—pipe, structurals, rods, bars, and all the other steel products are omitted. And finally, the reductions are limited to minimum shipments of 80,000 pounds in a territory where the smaller competitors of United States Steel can make few sales in 80,000-pound lots. But this proposal will give United States Steel what it wants and, as the writer indicates, will permit the southern roads to escape any controversy with the United States Steel Corp.'s associates in the eastern territory where United States Steel also has its major concentrations of steel mills.

(Ex. G 719: Letter, 9–27–40, Koontz to Kerr (1st par. on p. 2):)

"Nothing herein is to interfere with going ahead with the program of securing fourth section relief, as contemplated at Mr. Cleveland's conference, as between the southern and northern groups, on the complete iron and steel article list. With the formal concurrences of those addressed, we will then arrange to notify Mr. Cleveland so that our action can be thoroughly understood and promulgated to the northern and eastern lines. By limiting this action to sheet and wire products and to a minimum of 80,000 pounds—this limitation having been subscribed to by the proper officers of the steel company—we escape any serious controversy with other involved interests, carriers, or producers." [11]

It may be of passing interest to note that the meetings described above, taking place in 1939 nd 1940, before the Reed-Bulwinkle bill was passed into law, were an illegal restraint of trade. At this time, carriers who are presumably in competition with one another were not legally allowed, under the Sherman Act, to meet together for the purpose of fixing interterritorial rates. Passage of Senate bill S. 1008 into law, will do for the steel and cement companies what the Reed-Bulwinkle law did for the railroads, except that it will be more serious in that the steel and cement companies are under no public-utility regulations, such as ICC, and therefore have no public restraint on how high they may set their prices. While Senate bill S. 1008 does not condone the meeting and conspiring together of competing companies, it nevertheless repeals all provisions of law for restraining these companies, or any other companies, from using the basing-point systems once agreement to use it has been reached.

[9] Ibid., p. 710.

[10] Ibid., pp. 710 and 711.

[11] Ibid., p. 711.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Swanson, one of its reading clerks, announced that the House had agreed to the amendments of the Senate to the bill (H. R. 2740) to establish rearing ponds and a fish hatchery at or near Millen, Ga.

The message also announced that the House had severally agreed to the amendment of the Senate to the following bills of the House:

H. R. 1892. An act authorizing the Secretary of the Interior to issue a patent in fee to certain Indian lands in Lake County, Mont.;

H. R. 1997. An act to authorize the survey of a proposed Mississippi River Parkway for the purpose of determining the feasibility of such a national parkway, and for other purposes;

H. R. 2197. An act to authorize acquisition by the county of Missoula, State of Montana, of certain lands for public-use purposes; and

H. R. 4510. An act to provide funds for cooperation with the school board of Klamath County, Oreg., for the construction, extension, and improvement of public-school facilities in Klamath County, Oreg., to be available to all Indian and non-Indian children without discrimination.

The message further announced that the House had disagreed to the amendment of the Senate to the bill (H. R. 2877) to authorize the addition of certain lands to the Big Bend National Park, in the State of Texas, and for other purposes; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. PETERSON, Mr. MURDOCK, Mr. REGAN, Mr. CRAWFORD, and Mr. LEMKE were appointed managers on the part of the House at the conference.

The message also announced that the House had disagreed to the amendment of the Senate to the bill (H. R. 2944) to amend the Civil Service Retirement Act of May 29, 1930, as amended, to provide survivorship benefits for widows or widowers of persons retiring under such act; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. MURRAY of Tennessee, Mr. MORRISON, and Mr. REES were appointed managers on the part of the House at the conference.

ENROLLED JOINT RESOLUTION SIGNED

The message further announced that the Speaker had affixed his signature to the enrolled joint resolution (H. J. Res. 208) to amend the joint resolution creating the Niagara Falls Bridge Commission, approved June 16, 1938, and it was signed by the Vice President.

DELIVERED-PRICE SYSTEMS AND FREIGHT-ABSORPTION PRACTICES

The Senate resumed the consideration of the motion of Mr. LONG to reconsider the vote by which the motion of Mr. MCCARRAN to send Senate bill 1008 to conference was agreed to.

Mr. HILL obtained the floor.

Mr. WHERRY. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. KERR in the chair). Does the Senator from Alabama yield to the Senator from Nebraska?

Mr. HILL. I yield.

Mr. WHERRY. I am wondering whether those in charge of the legislation could give any idea as to whether there is a prospect of getting a vote on the motion to reconsider this evening?

Mr. HILL. Mr. President, I am not in charge of the legislation.

Mr. WHERRY. I ask in all seriousness.

Mr. HILL. I do not expect to speak very long, unless I am interrupted. The distinguished Senator from Oregon [Mr. MORSE] will very likely follow me, and I understand his speech will not be too long. Aside from those two speeches, I do not know of any other speeches that are to be made. I believe the distinguished Senator from Wyoming [Mr. O'MAHONEY] wants to say something in conclusion, of course.

Mr. WHERRY. The reason I am asking is that several Senators wondered whether the debate on the motion would go over until tomorrow. Whenever it is desired to have a vote, it will be perfectly agreeable to me. I also wanted to ask, if anyone can answer, in the event the motion to reconsider prevails, is it the intention then to continue to debate the merits of the bill and to discuss any amendments that may be offered?

Mr. HILL. I will yield, if any Senator wishes to reply to that question.

Mr. O'CONOR. Mr. President, will the Senator yield?

Mr. HILL. Without prejudice to my rights, I yield to the Senator from Maryland.

Mr. O'CONOR. Mr. President, I may say in answer to the question of the Senator from Nebraska, there are several Senators who have expressed a desire to speak in opposition.

Mr. WHERRY. Do they desire to speak on the motion?

Mr. O'CONOR. Yes; on the motion. The list includes, as the Senator from Alabama said, the distinguished Senator from Wyoming. It also includes the

distinguished chairman of the committee, the Senator from Nevada [Mr. McCARRAN], and I may say the junior Senator from Maryland also desires to speak briefly.

Mr. WHERRY. I may say that in asking the question I am not interested in endeavoring to fix any particular schedule, but I desired, as best I could, to obtain information on the subject. In view of the many Senators who desire to speak, is it the opinion of the Senator from Maryland that the question on the motion to reconsider will go over until tomorrow? Would that be the Senator's judgment?

Mr. O'CONOR. I should think so.

Mr. WHERRY. I thank the Senator. It was not my thought to suggest a fixed time, and I am not proposing a unanimous-consent agreement. I merely should like to be able to tell Senators who are interested in the matter, particularly as to the vote, whether we might expect to reach a vote tonight, or whether it is the intention to recess until tomorrow.

Mr. KEFAUVER. Mr. President, will the Senator yield?

Mr. HILL. I yield.

Mr. KEFAUVER. In view of the number of Senators who desire to speak, I believe the Senator from Nebraska would be entirely safe in assuming we cannot possibly conclude this afternoon.

Mr. WHERRY. I thank the Senator.

Mr. HILL. Mr. President, this is an important bill. The more one studies it the more one is impressed with the thought that the Senate has not considered a bill more important to our domestic economy or to the American free-enterprise system than is this bill. I fear, Mr. President, that the bill constitutes a grave danger to our American free-enterprise system. It is easy to give lip service to that system; it is easy to say we are against monopoly, that we want to protect small business, and that we want to keep trade and commerce unhampered and unrestricted in the United States. The difficulty, when we are confronted with a measure of this kind, is to be certain that we carry out our determination and resolution that we shall protect small business, that we shall preserve our free American enterprise system, and that we not only will not do anything which will open the door for monopoly or foster or encourage monopoly, but will prevent and strike down monopoly.

It is most unfortunate that a bill so important as is this one, and so far-reaching in its possibilities and its effect on our American economy, should not have had more careful consideration, particularly by the Senate committee and the House committee. We know that this bill, in its language, its wording, and its provisions, received no consideration by the Senate committee. The Senate committee considered and reported a bill to provide a 1-year moratorium, and then, without Senate bill 1008 being considered by the committee, it was adopted on the floor of the Senate after only 1 day of consideration by the Senate, as a substitute for the moratorium bill. When it went to the House of Representatives, the House committee held no hearings on it. The House committee reported the bill at the first and only meeting held to consider it. So it has not received the consideration and analysis which it should have had.

Mr. President, there is no Member of the Senate to whom I pay greater tribute for the valiant fight he has waged through the years against monopoly than the distinguished senior Senator from Wyoming [Mr. O'MAHONEY]. I know how he has worked, labored, and carried on the fight against monopoly and for the free American enterprise system. We all appreciate his work as the chairman of the TNEC, and we know that, since the report of the TNEC in 1940, the distinguished Senator from Wyoming has labored to make effective the recommendations of that fine historic report. The senior Senator from Wyoming has been, in the Congress of the United States, the accepted and outstanding champion in protecting the American people from monopoly and preserving the American free-enterprise system. But I do not think he himself could possibly have considered this bill with the care and with the fine-toothcomb analysis it should have received and with the consideration which he undoubtedly would have given to it if he had had more time in which to consider it.

As I recall, the bill was introduced one day and passed by the Senate the next day. The Senator from Wyoming, when he accepted the Kefauver amendments on the floor of the Senate, showed that he did not feel that the bill was perfect in any way, and that certainly there were doubts as to the efficacy and the wisdom of the provisions of the measure.

Mr. President, that is the situation. The bill has not been properly considered and worked out.

We find so distinguished an authority as Dr. Machlup, professor of political economy at Johns Hopkins University, at the present time serving a year with the Department of Economics of the University of California, on July 6, 1949, making a statement before the House Committee on Small Business, as follows:

> There is no doubt that an overwhelming majority of the Congress would vote against a bill to aid monopolistic policies and to harm the interests of small business. Senate bill 1008 does exactly this. But the Members of Congress have not had enough time to examine the implications of this measure. Some people are in an awful hurry to railroad this bill through Congress because they know that it would never be passed if the legislators knew what was behind it and what it would accomplish.

Of like tenor I find a statement from Dr. Vernon A. Mund, professor of economics at the University of Washington, in Seattle. His statement was made before the House Committee on Small Business on the same date, July 6, 1949, a few days more than a month ago——

Mr. O'MAHONEY. Mr. President, will the Senator yield?

Mr. HILL. I yield.

Mr. O'MAHONEY. Mr. President, I desire to express regret that at 4 o'clock a conference of the Senate and House conferees on the independent offices appropriation bill is to resume its sessions. This conference has been in progress yesterday and today. I should like very much to have the opportunity of staying here during all the Senator's discussion. He knows how much I value his opinions. I should like, indeed, to listen to them. I should like to say, however, before I necessarily must leave, that I am most grateful to the Senator for the very complimentary language he has used with respect to my labors in the past in defense of small business and against monopoly, and I assure him that the Senator from Wyoming is conscious of no departure from those purposes which have guided his activities in the Congress since first he became a Member of the Congress, and certainly not with respect to this bill. I point out to the Senator, if I may trespass upon his time to that extent, that the measure which was before us was a moratorium bill. The necessary implication of that moratorium bill, which had every indication of being speedily passed, was that the Congress of the United States, by a moratorium, was relieving for a brief time a prohibition by law against independent, nonmonopolistic freight absorption on delivered prices. In the judgment of the Senator from Wyoming, to have enacted such a law would have been to take away the freedom of small business, and to create a condition which would have been far worse than that which existed. The intention of the Senator from Wyoming was to devise a statute, if possible, which would make clear in the language of the law what members of the Federal Trade Commission and others had said with respect to the independent absorption of freight and the independent selling at delivered prices.

As the Senator knows, I accepted the Kefauver amendments, because I believed they were totally in harmony with the purposes of the author of the substitute. They were designed to make clear that nothing in the measure should be interpreted as in any way weakening the effect of the antitrust laws so far as they would prevent injury to competition.

I thank the Senator for having permitted me to interrupt him at this point. I hope that the conference on the appropriation bill may be through speedily, so that perhaps I may be able to return to the Chamber before the Senator concludes his remarks.

Mr. HILL. Mr. President, I very much regret that the Senator from Wyoming must leave. Of course, I understand full well that it is a case of necessity, and that he has to go to the conference committee meeting. I paid my tribute to the Senator from Wyoming, which was very sincere, and I do not in any way question or challenge the intent, the desire, or the purpose of the Senator from Wyoming as he has stated his intent, his purpose, and his desire here this afternoon.

Mr. O'MAHONEY. I thank the Senator.

Mr. HILL. I think that the legislation which now confronts us does not meet or carry out his intention, his desire, or his purpose. As I proceed with my remarks I shall endeavor to point out in

what particulars and why I feel that the Senator in writing the bill did not carry out his intent, his desire, and his purpose.

Mr. MORSE. Mr. President, will the Senator from Alabama yield?

Mr. HILL. I yield to the Senator from Oregon.

Mr. MORSE. I merely wish to join the Senator from Alabama in paying such a high and fine tribute and commendation to the Senator from Wyoming [Mr. O'MAHONEY]. There is no question about the sincerity and desire of the Senator from Wyoming to accomplish the purpose which he has just outlined to the Senator from Alabama. I am sure that he would reciprocate by admitting that those of us who do not see eye to eye with him on this point are equally sincere in trying to protect the small-business man of America. We simply do not share the judgment of the Senator from Wyoming on this particular point, and it pains the junior Senator from Oregon very much, because he usually finds himself in league with the Senator from Wyoming. But we all make mistakes, and I think on this particular occasion it is the Senator from Wyoming who is in error, and we hope to have him back on our team in due course of time.

Mr. O'MAHONEY. Mr. President, such charity is beyond my desserts.

Mr. LONG. Mr. President, will the Senator from Alabama yield to me?

Mr. HILL. I yield to the Senator from Louisiana.

Mr. LONG. Because the Senator from Wyoming must leave the floor, I will not pursue the debate; we can argue about this later. But I suggest that if the Senator will look on page 33 of the final recommendation of the TNEC, of which the Senator from Wyoming was chairman, he will find that in a unanimous recommendation they recommended that all freight absorption be outlawed, which is going far beyond anything we are advocating. The Senator from Wyoming has changed his position in this matter.

Mr. O'MAHONEY. Mr. President——

Mr. HILL. I yield to the Senator from Wyoming.

Mr. O'MAHONEY. The recommendation which was contained in that report was not a recommendation for the outlawing of freight absorption. That was a report directed against the basing-point system, and, as I said to the Senator from Louisiana yesterday, it is stated there in words which admit of no misunderstanding—and I know, because I wrote the words myself—that if legislation were to be introduced to abolish the basing-point system, such legislation should contain provisions allowing a period of time for industry to accommodate itself to that system.

I confess, after having listened to the Senator from Louisiana, the Senator from Tennessee, and the Senator from Illinois, that I am uncertain now whether or not the Senators are contending for the immediate establishment of an f. o. b. system. Sometimes I think they are, from what they say, but within 5 minutes, from some other comments they make, I think they want the country to understand that they do not advocate f. o. b. now.

Mr. HILL. Mr. President, whatever may be the question in the Senator's mind as to what other Senators may be thinking now, there can be no question about what the Senator from Wyoming was thinking when he made his TNEC report, because this is what he said, reading from page 8984 of the RECORD of July 6, 1949:

> We, therefore, recommend that the Congress enact legislation declaring such pricing systems to be illegal.

That is, base-pricing systems.

> Because such systems have resulted in uneconomic and often wasteful location of plant equipment, it is recognized by this committee that the abolition of the basing-point systems should provide for a brief period of time for industries to divest themselves of this monopolistic practice.

Mr. O'MAHONEY. Mr. President, if the Senator will pardon me, I call his attention again to the phrase, "should provide for a brief period of time." There was the provision. The newspapers of the country have been filled with declarations, some of them emanating from the Federal Trade Commission, in subordinate echelons, so to speak, some of them emanating from what have been called obiter dicta by the court, that the f. o. b. system must necessarily be established. The result has been that private capital, independent capital, nonmonopolistic capital, throughout the United States, is being intimidated from investing itself in productive competitive enterprise at a time when the Nation needs it. That is in complete harmony with the position taken by the Senator from Wyoming when the report was prepared.

Mr. HILL. I find nothing in the Senator's bill, S. 1008, which would make the provisions of the bill brief in operation or tenure.

Mr. O'MAHONEY. It does nothing to the basing-point system.

Mr. HILL. If the Senator could remain here and listen to my remarks, I would try to convince him otherwise, and that it opens wide the door and lends great encouragement in many ways to the basing-point system.

Mr. LONG. Mr. President, will the Senator yield?

Mr. HILL. Yes; but let me finish this last paragraph, so that it will come in at this point. I read the last paragraph from the recommendation of the TNEC Committee:

> The committee is not impressed with the argument that a legislative outlawing of basing-point systems will cause disturbances in the rearrangement of business through a restoration of competitive conditions in industries now employing basing-point systems. Such disturbances may be costly to those who have been practicing monopoly. But the long-run gain to the public interest by a restoration of competition in many important industries is clearly more advantageous.

I now yield to the Senator from Louisiana.

Mr. LONG. Mr. President, I should like to point out, in connection with the very recommendation the Senator has been reading, that the recommendation was to this effect:

During the past 20 years basing-point systems and variations of such systems known technically as zone-pricing systems and freight-equalization systems have been widely spread in American industry.

The recommendation was:

> We, therefore, recommend that the Congress enact legislation declaring such pricing systems to be illegal.

Which means more than merely outlawing the basing-point system; it means outlawing the zone-pricing system as well.

Mr. HILL. Which this bill, in section 1, would permit.

Mr. LONG. Yes.

Mr. HILL. The Senator from Louisiana is absolutely correct.

I had just read a quotation from Dr. Fritz Machlup, professor of political economy at Johns Hopkins University when the distinguished Senator from Wyoming asked me to yield, and I did yield. I was about to read from a statement by Dr. Vernon A. Mund, professor of economics, University of Washington, Seattle. The statement appears in the hearings before the Select Committee on Small Business of the House, on July 6 last. Dr. Mund had this to say:

> The O'Mahoney bill (S. 1008), as I interpret it, is designed to set aside the law of count II in the Conduit case, so that there will be no way in which to challenge the use of a basing-point system except by providing the existence of conspiracy even where substantial lessening of competition occurs. In the absence of the Kefauver amendment, moreover, the bill appears to set aside the rule of law established in the Standard Oil of Indiana case. The bill thus appears to provide for the legalization of the most potent device of monopoly—discriminatory pricing—and for the reestablishment of the law of the jungle. The rules of fair competition are to be set aside for the principle that a practice which is profitable to politically important groups is good for the Nation. S. 1008 is a serious threat to the preservation of price competition which is fair and aboveboard. It should not be enacted if due regard is to be given to the national interest.

Mr. President, the existing law—not, of course, Senate bill 1008, but section 2 (a) of the Clayton Act, as amended by the Robinson-Patman Act— prohibits price discriminations which are, first, not justified by difference in the sellers' costs; and, second, which may have certain effects. The term "may" is usually defined as "reasonable probability," and the prohibited effects are those which, in the language of the law, "may substantially lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition." Section 2 (b) of this act provides for the so-called good faith defense. That is to say, sellers may make price discriminations which are not justified by differences in cost, and which do injure competition, and defend themselves against an action by the Federal Trade Commission if they can show that they are meeting one another's lower prices in good faith. This good faith defense is not, however, a complete and final defense against a Commission action in

all cases. It is a procedural defense. After sellers have established the good faith defense, the Commission may then examine the character of the competition and decide whether or not the discrimination is justified, and if it finds the discrimination is not justified, it may then order the sellers to stop such discriminations. By the term procedural defense, it is meant, of course, that the burden is upon the Commission to build up a case which will convince the courts that the character of the competition does not justifiy the discrimination.

Senate bill 1008, as originally introduced by the Senator from Wyoming [Mr. O'MAHONEY] would have made the good-faith defense an absolute and final defense. This would have opened the gates to all kinds of ruinous discriminations against small business. It would have permitted big buyers to put small buyers out of business, and it would have permitted big sellers to put small sellers out of business. It would have been illegal, under this bill, for one seller to discriminate in favor of a large buyer. But this discrimination would have been legal if two or more sellers were making or offering to make the same discriminations to the large buyer. This large buyer could then, because of such discriminations made in his favor, proceed to put his small competitors out of business with the complete blessing of the law. This was just the kind of thing, the senseless and unwarranted destruction of small business, that the Robinson-Patman Act was intended to stop.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. HILL. I yield.

Mr. LONG. Does the Senator not feel that possibly the Senator from Wyoming made some change in his position when he made the following statement before the House Committee on the Judiciary:

> I believe that competition is competition no matter whom it hits.

In other words, if that theory is followed through, then it must also be said that the whole of the Clayton Act and the whole of the Robinson-Patman Act, acts which were passed by the Congress to protect small-business men from discrimination, and to enable them to carry on in business without being destroyed by ruinous discriminations practiced against them, would have to go. If that line of logic were to be followed, all the antitrust laws would have to be repealed.

Mr. HILL. I agree with the interpretation which the Senator from Louisiana places on the language he has just read.

Mr. JOHNSON of Colorado. Mr. President, will the Senator yield?

Mr. HILL. I yield.

Mr. JOHNSON of Colorado. In connection with the reply just made by the Senator from Alabama to the Senator from Louisiana, does the Senator believe that we should protect competitors, or does he believe that the law should protect competition? There is a great difference between the two.

Mr. HILL. I think the law should keep competition open and should protect it.

Mr. JOHNSON of Colorado. That is what the bill we are considering does.

Mr. HILL. What we are interested in is to keep competition open for the benefit of small business, for the benefit of all business, and for the benefit of the consuming public.

Mr. JOHNSON of Colorado. I am very pleased that the Senator is making that point clear, because from his reply to the Senator from Louisiana I was quite confused.

Mr. HILL. I am always delighted whenever I can elucidate to my good friend from Colorado and make the situation clear.

Mr. LONG. Mr. President, will the Senator yield?

Mr. HILL. I yield.

Mr. LONG. Does the Senator from Alabama agree with me to this extent, however, that in order to protect competition and to have competition, it is necessary to protect some competitors from unfair discrimination on the part of other competitors, for, if no protection were offered, they could no longer compete?

Mr. HILL. Of course, the Senator from Louisiana is absolutely correct. It follows logically that it is necessary to protect certain competitors from unfair or destructive competition if the field of competition is to be kept open. The Senator is absolutely correct.

Similarly, under the O'Mahoney bill as originally introduced, one large seller could discriminate in price to put his smaller competitor out of business, and this would be with complete legality so long as some other large seller met, or offered to meet, the discrimination. Thus, if the United States Steel Corp. should decide to declare a price war on the Atlantic Steel Co. at Atlanta, it could legally cut prices below costs in the Atlanta territory, provided the Bethlehem Steel Co. followed, or offered to follow, these same price cuts. Since both of these big steel companies have distribution outlets all over the country, a special price cut in the Atlanta area would result in only inconsequential losses of profits to them, losses which they could easily take—but could very well put the small company in Atlanta out of business. Such practices would have been exactly the same as those which were condemned in the old Standard Oil trust case. That was the dissolution case of the Standard Oil Co., the decision which was rendered in 1911, and which case really inspired the passage of the Clayton Act. These were the practices by which the old Standard Oil Trust put its small competitors out of business and gained a virtually complete monopoly of the petroleum business of the country.

The Senate was unwilling to pass any such law on June 1st, which was the day we had this bill under consideration. I am sure it is unwilling to pass any such law now. However, the Senate did accept the bill with the Kefauver amendments, which seemed at the time to provide a safeguard against the kind of destruction of small business which I have been discussing. But the Kefauver amendments contained the word "will" instead of the word "may," and because of this inadvertent substitution the amendment would have been practically useless.

I commend the Senator from Tennessee [Mr. KEFAUVER], who has been so able, so diligent, and so vigilant at all times to protect the interests of the people, for offering these amendments. The situation was just that which I sought to describe in the beginning of my remarks. The bill was passed under such circumstances that there was little opportunity for any real consideration of the language of the amendments or the language of the bill. The Senator from Tennessee had to prepare his amendments on the spur of the moment, without time to give them due consideration and without time to carefully think out the language of the amendments. But by offering his amendments he did challenge attention to and bring out the very questions we are debating here today. If the Senator from Tennessee had not offered his amendments, this bill might never have come back to the Senate. There might never have been any further opportunity for consideration of the bill. The bill, with all its dangers to our free enterprise system, with all its dangers to small business, might be the law today.

Mr. JOHNSON of Colorado. Mr. President, will the Senator yield?

Mr. HILL. I yield.

Mr. JOHNSON of Colorado. Of course, I favored the Kefauver amendments at the time they were offered on the floor of the Senate. I voted for them, and was glad they were introduced. But the Senator knows that the bill which he is condemning so vociferously was approved by the Department of Justice, which is charged with the administration of the antitrust laws.

Mr. HILL. Yes; and I think the Department of Justice is just as wrong as any Department of Government could be.

I call attention also to the fact that the questions which we are discussing come primarily under the jurisdiction of the Federal Trade Commission, and not the Department of Justice. I am afraid we have a disagreement, as sometimes happens, between two departments of Government. In this case the Department of Justice, which does not have primary responsibility in the matter, is wholly in error, in my opinion.

Mr. JOHNSON of Colorado. The Senator knows, too, that the Federal Trade Commission, which the Senator is now praising, is the source of this bill as it was originally introduced.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. JOHNSON of Colorado. Let me finish my statement. If the Senator has praise for the Federal Trade Commission and praise for the Department of Justice, those experts—and they are experts in that field—are the very ones who wrote the language which is contained in the O'Mahoney bill.

Mr. LONG. Mr. President, will the Senator yield?

Mr. HILL. I yield.

Mr. LONG. I want the Senator to know that there is one man on the Federal Trade Commission, Lowell Mason, who has been urging the same point of view which big business has been urging from the very beginning. However, that view is not necessarily the view of the majority of the Commission. Moreover, Corwin Edwards, a member of that Commission, has recently written an article in which he says, in effect, that he favors legalization of the basing-point system, and, generally speaking, that he favors freight absorption. He states that to enforce the effects of the Cement Institute case and the other cases in the Supreme Court would tend to put an end to the concentration of American industry. He personally believes that we should have concentration of American industry for greater and more efficient production. In that respect he believes that big business is better for the country than small business.

Mr. HILL. His view and the view of the Senator from Louisiana are entirely opposite and I strongly share the view of the Senator from Louisiana.

I have before me brief quotations from statements of members of the Federal Trade Commission, which appear in the Appendix of the RECORD, at page A4892. I shall not take the time to read all of them. Here is a letter from Hon. Lowell B. Mason, Chairman of the Federal Trade Commission, dated May 16, 1949, concerning House bill 222, which was a moratorium bill, and Senate bill 1008. He said:

> The Commission believes that neither of these bills is necessary or desirable.

Here is a quotation from Hon. Ewin L. Davis, a member of the Federal Trade Commission, in a letter to the distinguished Senator from Colorado [Mr. JOHNSON], chairman of the Committee on Interstate and Foreign Commerce. This letter is dated February 17, 1949. I quote from Hon. Ewin L. Davis, in a letter to the Senator from Colorado:

> Not only do I fail to see the need for emergency legislation, but I also think that any such legislation as that proposed would defeat the committee's purpose of clarifying the law. * * * You will recall that in my testimony before your committee I stated that legislation such as S. 236 was unnecessary and undesirable in my opinion. * * * Patchwork amendment of the law is unlikely to produce a good result. Accordingly, I suggest that such changes in the law as your committee now contemplates be deferred in order to permit concentration upon the second part of your task and thereby to make possible a well-rounded and fully coordinated set of proposals designed to strengthen the antimonopoly laws and provide for their more effective enforcement.

Mr. JOHNSON of Colorado. Mr. President, will the Senator yield?

Mr. HILL. Just a moment. Here is a statement from Robert B. Dawkins, associate general counsel of the Federal Trade Commission, before the Senate Judiciary Committee on March 31, 1949, concerning Senate bill 1008:

> The Commission does not believe that enactment of the proposed legislation is necessary or desirable. Insofar as it may affect existing law, it is obviously intended to be and acts only as a suspension, but it is almost certain to create new doubts as to the legal status of the practices which the Congress finds necessary to safeguard with a moratorium.

Mr. JOHNSON of Colorado. Mr. President, will the Senator yield?

Mr. HILL. I yield to my distinguished friend from Colorado.

Mr. JOHNSON of Colorado. The Senator does not know, perhaps, that Robert B. Dawkins, the man he has just quoted, is the man who wrote the bill introduced by the Senator from Wyoming [Mr. O'MAHONEY]. Let me say to the Senator that we have had several bills on this subject. There was a Senate bill 1008 before this bill. This bill is a substitute for the moratorium bill which was introduced by the Senator from Pennsylvania [Mr. MYERS], the original Senate bill 1008. The references and observations which the Senator from Alabama is now reading to us were made with respect to other bills. The Senator has no evidence to show that any of these gentlemen are opposed to or criticized adversely the bill which is presently before the Senate. This is an entirely new bill. It was written in the Federal Trade Commission. It was approved by Mr. John Clark, who is a member of the President's Economic Advisory Council. It was approved by the Department of Justice. It was approved all the way along the line. These men who were selected to safeguard us found no such terrible consequences as the Senator from Alabama now discovers in the original O'Mahoney bill. If there were any of those terrible things there, they were pretty well eliminated by the amendment which was made on the floor of the Senate, the amendment offered by the Senator from Tennessee [Mr. KEFAUVER], which I hope will remain in the legislation as finally enacted.

Mr. LONG. Mr. President, will the Senator yield?

Mr. HILL. I yield.

Mr. LONG. The name of John Clark has been mentioned. Although I do not know the gentleman, I wonder if the Senator knows that he was one of the great Standard Oil executives. He has been one of the foremost advocates of the legalization of the basing-point system itself, which is the very thing we are fighting, and which Senators who are opposing this legislation say is not going to be legalized. If the bill meets with Mr. Clark's approval, would not that indicate that the bill might actually legalize the basing-point system?

I will ask the Senator if he knows that one of the main antitrust cases presently in court is the case involving the Standard Oil Co. of Indiana. In that case it will be decided whether or not Standard Oil can discriminate in prices so as to ruin the small independent filling-station operators. That case hinges on the action of Congress in respect to Senate bill 1008.

Mr. JOHNSON of Colorado. Mr. President, will the Senator yield?

Mr. HILL. I yield.

Mr. JOHNSON of Colorado. What the Senator says with respect to section 3 does have some bearing upon the Standard Oil case which is now being heard. If I had my way, section 3 would be eliminated from the bill. It should be eliminated from the bill, and the Supreme Court should make its decision without any new legislation on the subject. I hope that may be done, so that the coming decision will not be in any way affected by legislation now before the Congress.

But I wish to say one thing about John Clark. He is one of the great men of this country, one of the great liberals. His father left him a great fortune, but he did not become a playboy at all. No, Mr. President, he became a university professor, and he became one of the most distinguished educators of the whole country. He is well known in Nebraska, in Wyoming, and in Colorado. Anyone who thinks that John Clark is an advocate of big business and ruthless action by big business, simply does not know anything about John Clark. He is one of the great liberals of the country, and is so regarded by everyone who knows him.

Mr. LONG and Mr. CAPEHART addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Alabama yield; and if so, to whom?

Mr. HILL. I yield first to the Senator from Louisiana, and then I shall yield to the Senator from Indiana, if the Senator from Indiana will permit me to ask him to wait for a moment.

Mr. CAPEHART. Very well.

Mr. LONG. I would suggest to the Senator—and I ask him if he agrees—that there is absolutely no reflection upon a man simply because he happens to regard big business as a necessity for this country. The fact that we may disagree with Mr. John Clark on his views on the basing-point system does not mean that we would not agree with his views on other subjects. For instance, we might even agree with him in regard to section 3.

Mr. CAPEHART. Mr. President——

Mr. HILL. Mr. President, I ask the Senator's indulgence for a moment further, and then I shall yield to him.

Mr. CAPEHART. Very well.

Mr. HILL. Mr. President, at this time I should like to place in the RECORD three statements relative to the Federal Trade Commission.

Mr. JOHNSON of Colorado. Mr. President, if the Senator will yield further to me, I should like to say a word about the Federal Trade Commission. Will the Senator yield to me for that purpose?

Mr. HILL. I yield on that particular point, but only on that point, because of course I have previously promised to yield to the Senator from Indiana as soon as I finish discussing this point.

Mr. JOHNSON of Colorado. Some reference was made to Commissioner Lowell Mason. I wish to say with all due respect to Commissioner Mason that he had no part—either in an advisory capacity or in any other capacity—in the drafting of the O'Mahoney substitute for Senate bill 1008. That was done without his knowledge or participation; he had

no part in it. I do not know whether he approves it or does not approve it. But I think it should be said for the RECORD that Commissioner Mason had no part in it.

Mr. LONG. Mr. President, will the Senator yield for a further question?

Mr. CAPEHART. Mr. President——

Mr. HILL. I yield to the Senator from Louisiana, if he wishes to ask a question on the point we have been discussing.

Mr. LONG. Yes.

Mr. HILL. Very well; I yield.

Mr. LONG. Inasmuch as the Senator from Colorado seems to know who were advised and consulted regarding Senate bill 1008, I wish the Senator from Alabama would ask him whether Dr. Corwin Edwards, chief economist of the Commission, was consulted?

Mr. JOHNSON of Colorado. I understand that he was; yes.

Mr. LONG. I should like to read into the RECORD, if the Senator from Alabama will permit me to do so, a quotation from an article by Dr. Edwards, published in January 9, 1949, on this very issue. I ask the Senator from Alabama, if he is familiar with the article which Dr. Corwin Edwards wrote, appearing in the Georgetown Law Journal for January 1949, in which the statement is made that—

A second broad characteristic of an industry-wide basing-point system is that it tends to facilitate the growth of large enterprises and to limit the growth of small enterprises, so that discrepancies in size within the industry are maintained and may even be enhanced.

He went on to say:

Small concerns located away from the base quote prices in their home markets which are computed as the sum of the base price plus the full freight from the base to these markets, and therefore any enterprise at the base can invade these outlying markets without financial sacrifice.

The entire market area lies open to the basing-point mill. By contrast, the home market of the basing-point mill is not fully open to anyone except another concern also located at the same base, for the outlying producers who sell toward the base find that in such sales their delivered prices go down while their freight costs rise, so that their net receipts are reduced by roughly double the amount of the freight outlay.

He further said—and I wonder whether the Senator from Alabama is cognizant of this:

The sacrifice imposed upon him by such a system are loss to his initiative and independence in making prices, abandonment of any effort to give a nearby customer a price incentive to deal with him rather than with a distant producer, and impairment of his opportunity to enlarge his business by reaching out to markets nearer the basing point. A concern which is willing to remain permanently small and docile is well suited to the use of such a pricing system, but a small concern which desires to grow is likely to find the system a serious handicap.

Then he concluded by saying that:

The system weights the scales in favor of the large enterprise, as against the small more decisively than do other types of geographic price structure * * *. In consequence of the decisions in recent cases, the long-run effect of the changes is likely to be a reduction in the strategic advantage to concentrations of economic power and again in the opportunity for small-business enterprises to pursue their own price policies, develop their own markets, and grow bigger.

In view of the statement there made by Dr. Edwards, would not it appear that if Dr. Corwin Edwards were consulted, probably he would advise in favor of a law that would legalize the basing-point system, because he believes in big business?

Mr. HILL. It certainly seems that way. The Senator is entirely correct.

Mr. President, now I am glad to yield to the Senator from Indiana [Mr. CAPEHART], as I have said I would.

Mr. CAPEHART. That is quite all right.

Mr. HILL. Does the Senator from Indiana desire that I yield to him at this time?

Mr. CAPEHART. Not now, Mr. President.

Mr. HILL. I assure the Senator that I meant no discourtesy to him, as I hope he realizes; I was merely desirous of concluding the discussion of that particular point before I yielded for a discussion of another point, inasmuch as I felt sure that the Senator from Indiana had another point in mind.

Mr. CAPEHART. I do not ask that the Senator from Alabama yield to me now.

Mr. HILL. Very well.

Mr. President, on June 2, 1948, the Honorable Garland S. Ferguson, a Commissioner of the Federal Trade Commission, in testifying before the Capehart committee, was asked the question:

Do you feel that possibly some new legislation is needed upon this?

Commissioner Ferguson replied:

I cannot say that I do, Senator. Of course, that is in the wisdom of Congress. * * * Just as an individual I will say that, so far as I now can see, I do not see any need for legislation.

The Honorable Ewin L. Davis, another of the Commissioners of the Federal Trade Commission, in testifying before the same committee on June 2, 1948, stated:

I respectfully recommend against the enactment of legislation which would legalize the basing-point system or any other device which is used to restrain competition. Such legislation, if enacted into law, would undoubtedly seriously weaken the enforcement of the antitrust laws.

The Honorable Robert E. Freer, while Chairman of the Federal Trade Commission, stated before the same committee, on June 4, 1948, in testifying in reference to the Supreme Court decision in the Cement Institute case, which, of course, is the decision which actuated and inspired the presentation of Senate bill 1008:

The suggestion inherent in the resolution (setting up the Capehart committee) that legislation may be needed to legalize what was condemned by the Commission in the Cement case is a serious one and it goes to the very roots of the antitrust laws. I think it should be made plain from the outset that legislation which would approve any practice prohibited by the Commissioners' order in the Cement case would be legislation to permit combination and conspiracy to fix and maintain prices or systematic price discrimination practiced for the purpose or with the effect of eliminating competition.

Then, Mr. President, I should like to place in the RECORD at this point a statement made by Mr. Everette MacIntyre, Chief of the Division of Antimonopoly Files, of the Federal Trade Commission, his statement being to the same purport, in opposition to any such legislation:

On March 1, 1949, a majority of the members of the Federal Trade Commission, over the signature of the Secretary of the Commission, submitted to Senator EDWIN C. JOHNSON, at his request, their comments on S. 1008 then pending before a committee on the Senate. In that letter it was stated: "The Commission believes that enactment of this bill is neither necessary nor desirable." In that letter reasons were given why the Commission stated that conclusion with respect to the draft of the bill then pending in the Senate committee. They appear to me to have been based upon the belief of the Commission that the law was clear and that the legislation then proposed would add uncertainties to the law instead of providing for clarification. With that conclusion I personally am in complete agreement.

Mr. President, at the time the distinguished Senator from Colorado asked me to yield, I was speaking about the Kefauver amendments and about the words "will" and "may." The word "will," a verb denoting a certain future event, would have required the Federal Trade Commission and the courts to find that any discriminations under question would, as a positive certainty, have the future effect of a substantial lessening of competition. This amendment would not, therefore, provide a proper safeguard, and would not do what the Senate intended. As I understand the Carroll amendment, which was offered in the House, it would provide the safeguard intended by the Kefauver amendment, and therefore I see no good purpose to be served by sending the bill to conference for a compromise between the two amendments.

The question arises as to why we should want to adopt the proposed amendment to the Clayton Act, as contained in Senate bill 1008. Why should we want to pass Senate bill 1008? Since the House has refused to pass the bill without the safeguard of the Carroll amendment—and remember, Mr. President, the House Judiciary Committee opposed the Carroll amendment, and it was adopted by the House over the opposition of the committee—and since the Senate has expressed its desire for a similar safeguard, the question arises as to how the bill would change the present law. It appears to me the House version of the bill, containing the Carroll amendment, would change the present law, namely, the Clayton Act as amended by the Robinson-Patman Act, in three ways.

First, it would place some serious limitations and difficulties in the way of the Federal Trade Commission in enforcing the law. It would require that before the Commission could issue a complaint against a company engaged in price discrimination, the Commission would have to build up a case which would afford

reasonable belief that the price discrimination has, or in reasonable possibility will have, an injurious effect upon competition. This would mean that the Commission would have to spend months and months of the time of its lawyers and investigators building up a case to show that the discrimination had injurious effects and then, after spending all that time and money, the company would in many cases show in a few days that the discrimination was justified by differences in costs, and that its discriminations were therefore legal. In such a case the Commission would have wasted its time in proving the effect of the discrimination, which under the bill would be legal, in any event.

Of course, in those cases where it seeks finally to stop the discrimination the Commission would have to prove the injurious effect anyway; but the difference which would be brought about by this proposed shift in the procedural burden of the law is that the Commission would be required to prove the effect even in those cases which must inevitably be dismissed.

In other words, much time of the investigators and lawyers of the Commission would be consumed in collecting evidence in cases which would inevitably be dismissed, and which the Commission could not carry through to a successful termination. All this bill would do, then, would be to put an additional burden on the Commission and its staff, requiring so many more investigators and lawyers to devote their time and attention to cases in which there was no illegal discrimination, and concerning which the Commission could take no action against the discrimination.

Such a shift in the procedural burden of the law as this would have the practical effect of cutting the Commission's annual appropriation for the enforcement of the law. Or, conversely, it would mean that the same amount of law enforcement we are getting now would cost a great deal more money in the future. I cannot therefore see the purpose of this proposed change in the law, unless it be that we think we are now getting too much law enforcement against monopolistic practices, or conversely, that we want to increase the appropriation of the Federal Trade Commission and put more lawyers and investigators on the pay roll.

A second way in which the bill would change the law is that it would take away the powers of the Federal Trade Commission to stop the kind of discrimination it ordered stopped in the Morton Salt case, which was last year decided by the Supreme Court. Certainly this was the opinion of Representative WALTERS, a member of the House Committee on the Judiciary, who reported Senate bill 1008 to the House for the committee, because, in his report to the House, Representative WALTERS makes this statement:

> Section 4 of the bill is amended to provide there shall be reasonable probability of the specified effect provided for in the act. This restores the doctrine in effect prior to the decision in the *Morton Salt Case* (334 U. S. 37).

If this would not be a certain eventuality of the bill, certainly it seems probable it is an eventuality which many lawyers feel would be effectuated by the bill. In fact, Mr. Bergson, who is head of the Antitrust Division of the Department of Justice, testified to the Committee on the Judiciary of the House, on June 8, that the language of the bill as then written certainly would have this effect.

I have heard some criticisms of the Court's decision in the Morton Salt case, but in looking into the matter I have come to the conclusion that these criticisms are unwarranted. The criticisms we hear and read in the press about antitrust cases largely follow a pattern. Criticisms were made against the decision in the Cement Institute case, and against the decision in the Rigid Steel Conduit case. I have read a great deal of criticism which would almost lead me to believe that the practices which the Court condemned were normal everyday practices, which involved no real conspiracy to fix prices. But upon examining the decisions, upon scrutinizing them closely, it becomes evident there were conspiracy and collusive price agreements, and there was all kinds of direct evidence to prove that the corporations involved in these cases were conspiring to fix prices.

Now it appears that under the present law there has been no question but that the Federal Trade Commission could stop a seller from making unjustified price discriminations in favor of a large buyer under certain circumstances. These circumstances are those where the probable result of the discriminations made by this one seller would be sufficient to put small competitors of the large buyer out of business. But if the law had been construed to apply only in such circumstances, this would have meant that the law could protect small buyers only where they handled or sold only one product, or at least where a very prominent part of the buyer's total business involved the products of a single supplier. This would have been so because the law could have been applied only when the discriminations of a single supplier were of themselves alone sufficient to put the small buyer out of business. Such a limited protection as this would, of course, provide no protection at all for a small business such as a grocery store, which handles a large number of different products all coming from different sellers. The discrimination in any one product, no matter how great, would not of itself be sufficient to put the buyer out of business, although the discriminations of all of the various sellers in the aggregate would certainly have this effect. In the Morton Salt case the Supreme Court took the view that such small buyers do have a protection under the law, and that unjustified discriminations of the various individual sellers can be stopped. Certainly, no one in his right mind would claim that a discrimination in the price of salt alone, no matter how great, would have the probable effect of putting independent grocers out of business. But the Court did reason, and it seems to me with considerable wisdom, that the small buyers who were penalized by unjustified discrimination in the price of salt would be the same small buyers most likely to be penalized by similar discriminations in the price of baking soda, flour, and all of the other countless small items that a grocer sells. I do not, therefore, see the wisdom of a proposed law which would provide protection against unjustified price discriminations against small businesses when these small businesses are of the type that deal in only one or two products, while at the same time denying similar protection to small businesses which deal in a large number of products.

Mr. LONG. Mr. President, will the Senator yield for a question at this point?

Mr. HILL. I yield to my distinguished friend from Louisiana.

Mr. LONG. I am sure the Senator knows that this bill as presently written proposes to define the words "the effect may be" to mean that there must be proof of a reasonable probability. In the Morton Salt Co. case, the court stated that only proof of a reasonable possibility was required of the discrimination against a small-business man, which would put him out of business. I wonder whether the Senator feels that by changing the definition from "possibility" to "probability" the decision in the Morton Salt Co. case might be reversed?

Mr. HILL. I have read to the Senate the statement of Representative WALTER, who reported Senate bill 1008 to the House of Representatives for the House Judiciary Committee, in which he takes the position suggested by the Senator from Louisiana, that the passage of this bill would have the effect of repealing the decision in the Morton Salt case.

I thank the Senator for his question.

A third way in which this bill would change the existing law of the Robinson-Patman Act is that it would exempt from this law all kinds of discriminations against places or different sections of the country. This comes about in section 2 of the bill where it is proposed to exempt from the Robinson-Patman Act all price discriminations, no matter how great, which are involved in geographic pricing formulas. Section 2A of the bill proposes to exempt from the Robinson-Patman Act two kinds of delivered pricing systems. The first is the so-called postage stamp price system whereby a seller sells at the same delivered price all over the United States. Articles sold in that way today are articles such as candy bars, Lifesavers, and things of that kind. It is an interesting question as to what would be the effect if steel were sold on the postage-stamp basis.

Mr. LONG. Mr. President, will the Senator yield?

Mr. HILL. I yield.

Mr. LONG. The Senator knows that a large number of industries use that system. They charge freight half-way across the United States, even though the delivery is only across the street. It may not be only for their own convenience, but as a way of arriving at an identical price with their competitors.

Mr. HILL. The Senator is exactly correct.

The second is the so-called zone price system whereby a seller sells for one price, say, in the East and another price in the South, and perhaps another price

west of the Rocky Mountains. Section 2B of the bill proposes, moreover, to exempt from the Robinson-Patman Act by legalizing the mechanical elements inherent in the system.

Mr. KEFAUVER. Mr. President, will the Senator yield?

Mr. HILL. I yield.

Mr. KEFAUVER. In section 2 (b) of the bill, after providing that certain things shall be legal, it is then stated, in effect, "Provided, they do not do the things that are prohibited by this act." That is the Carroll amendment. If the proponents of this bill do not want to amend the antitrust law or the Robinson-Patman Act or section 2 of the Sherman Act, can the distinguished Senator see any reason in the world why they should object to stating in plain language that they do not want to have done anything prohibited by this section of the bill?

Mr. HILL. That would certainly be the direct and affirmative way to do it, and, as the Senator knows, that would certainly be the proper way to do it.

Mr. KEFAUVER. Should not one conclude, then, that since some proponents of the bill are so vigorously opposed to the amendment, they must have in mind not simply clarification but mutilation and emasculation of the Robinson-Patman Act?

Mr. HILL. That conclusion is well justified. I think it would be logical to reach such a conclusion.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. HILL. I should like to finish, but I am glad to yield to my friend from Louisiana.

Mr. LONG. Speaking of the so-called confusion with reference to the law, I wonder if the Senator knows that in discussion with a member of the Antitrust Division of the Department of Justice, he and I arrived at the conclusion that we perfectly understood what the law meant. There was no confusion in our minds, although the same man testified before the House committee that the law was confusing.

Mr. HILL. The gentleman evidently had a quick change of opinion.

Since all possible restrictions upon freight absorption to match the delivered prices of distant competitors would be removed, all possible restrictions on phantom freight would also be removed. Phantom freight would be exempted from a finding of illegality under the Robinson-Patman Act by the mere fact that a seller who wanted to charge phantom freight would set his base price as high as he might choose, and then proceed to match the delivered prices of his distant competitors by absorbing freight. In this way legality would be given to the nonbase mills of the old basing-point system, wherein producers of steel and other commodities charged their very highest prices to their local customers and charged their lower prices to customers farthest away from home.

In that connection, I should like to read two brief statements found in the hearings before the Small Business Committee of the House, which hearings lasted from June 28 to 30 and from July 1 to July 5 of this year. The Chairman of the Federal Trade Commission had this to say:

> Freight absorption is frequently thought of as the retention of the amount which the seller would ordinarily receive of all or part of the transportation charge incurred in making the sale. Under many basing-point systems there are producers who have no mill price and who charge delivered prices that include imaginary transportation charges from their mills, now generally known as phantom freight. If these nonbase mills establish mill prices as high as the former delivered prices at their mills, they can keep the same delivered prices by eliminating an imaginary freight charge. If they set mill prices still higher, what was formerly phantom freight would then be absorbed freight, though the delivered price does not change. A price discrimination has the same effect, whether it is described as an additional charge to those who pay higher prices or as a reduced charge to those who pay lower prices.

I now want to read from page 64 of the hearings before the House Committee on Small Business the following statement of Dr. Fritz Machlup, of Johns Hopkins University:

> In the light of the foregoing discussion, what about the proposals that the charging of fictitious freight be prohibited but the absorbing of actual freight be permitted? Should one wonder about the naiveté of the proponents? Or admire them for keeping straight faces and appearing serious while they try a good joke? Or should one take offense at the impudence with which somebody tries to pull our leg? Whether any particular price charged to a customer is "increased by a fictitious charge" or "reduced by a generous allowance" depends on the base price from which one chooses to start. If a delivered price of $60 seems to contain a fictitious charge of $10, as long as the base price is stated as $50 the seller needs only to increase his base price to $60 in order to avoid making fictitious charges. It is absolutely irrelevant whether price discrimination is practiced by making additional price charges to unfavored buyers or by making special allowances to favored buyers.

Mr. President, we have before us a bill which, on the one hand, proposes to prevent unjustified and injurious price discriminations against persons, but, on the other hand, proposes to permit the same kind of discriminations against various places and sections of the country. If it is recognized that we cannot prevent injurious discriminations against some persons without also preventing injurious discriminations against places, then we have a bill which has only a limited effect in preventing discriminations against persons.

The people of the South and West do not live in the East, and most of them are not likely to move their homes to the East or to any other section of the country. Therefore if we pass a bill which permits unjustified and injurious discriminations against the South and the West, we would be passing a bill which permits injurious discriminations against certain citizens of the country.

It may be that these proposed exemptions from the Robinson-Patman Act could be made without great damage, provided the basing-point system and other monopolistic systems of geographic pricing could be stopped under section 5 of the Federal Trade Commission Act. Moreover, it was the original understanding that amendments to section 5 of the Federal Trade Commission Act contained in this bill would indeed retain a law under which the basing-point system could be stopped. But now I have grave doubts as to whether the proposed amendments to this act would retain such a law. A great many questions have been raised. It seems to be a tricky and complex subject, but I judge that the corporations who have been using this discriminatory price-fixing method think that this bill would legalize the basing-point system. I hear no opposition to the proposed amendment to the Federal Trade Commission Act from these quarters, but I do, on the other hand, hear expressions which indicate that this is the kind of bill these monopolistic corporations want.

For example, on June 3, shortly after this bill passed the Senate, the New York Times carried a story under the following headlines: "Steel men happier on O'Mahoney bill. Admit privately that measure seems to provide means of solving price problem."

Mr. President, I submit there is not a more accurate or more reputable newspaper in the country than the New York Times. It literally prints the news. It literally tells the facts, and gives the truth behind the facts.

Under the headlines I have read the New York Times reported in part as follows:

> Although reluctant to commit themselves officially pending House action on the measure, steel industry officials admitted privately yesterday that the O'Mahoney bill amending the Federal Trade Commission Act, passed unanimously by the Senate on Wednesday, seems to provide the authority they have been seeking to meet competitor's prices.
>
> The general opinion of the steel industry is that the O'Mahoney bill would allow a return to the former basing-point system of pricing, the legality of which has been in doubt since the United States Supreme Court upheld last year a ban by the FTC on the cement industry's pricing system.

Mr. President, if this bill is going to weaken the antitrust laws, and make it even more difficult than it is now for the Federal Trade Commission to put a stop to the monopolistic basing-point system, then I am unalterably opposed to the bill. If the question of whether the Federal Trade Commission now has the power to put a stop to this monopolistic system is so much in doubt that the Supreme Court was divided 4–4 on this question in the Rigid Steel Conduit case, then I say that the law we ought to pass is not one which would create even more doubt, but one which would eliminate all doubt that the Federal Trade Commission did indeed have such powers. I say, moreover, if there was a question in the mind of the Supreme Court on this matter, after all the evidence of conspiracy and collusive price fixing that was brought out in the Rigid Steel Conduit case, then we ought to pass a law, such as that suggested by the Senator from Tennessee [Mr. KEFAUVER], which would very clearly state that the Federal Trade Commission could and must put a stop to this system. By this I do not mean that we should have a law whereby the

Government merely slaps these monopolistic corporations on the wrists and tells them to quit conspiring. I mean that we should have a law which would definitely put a stop to the basing-point system.

There has been no monopolistic device or practice invented which has done more harm to the South and the West than the basing-point system. This is a system whereby certain giant corporations of the East and Central States stake out a preserve on the markets of the South, and, for that matter, on the West. These corporations use this preserve to exact high prices in the South as long as no local competition springs up, and then, when some local competition does spring up, the system is used either to hamstring this competition or to destroy it.

In the first place, when the large, old-established corporations enter into conspiracy with one another, one of their main purposes is to design practices which will keep new competitors from coming into the field. This means particularly new competitors and new businesses which might come into being in the South and in the West. The reason for this is that it is particularly easy to design basing-point systems and the other kinds of practices which are conducive to destroying small competitors who arise in isolated markets where freight cost differences to the central markets of the East are high.

The fact is that under the basing-point system any producer located in a region where markets are thin, such as the South and the West, is at the mercy of his larger centrally-located competitors. A producer located in these regions must keep his prices so high that many of the local customers will find it just as cheap to buy from the East, and if he tries to lower his prices, the big central producers will then gang up and put him out of business. This problem was recognized by the Supreme Court in the Cement Institute case. The Court described, for example, the case of one cement mill, which happened to be located in the West. I should like to read the description from Justice Black's opinion:

> Meetings were held by other producers; an effective plan was devised to punish the recalcitrants and bring them into line. The plan was simple but successful. Other producers made the recalcitrant's plant an involuntary base point. The base price was driven down with relatively insignificant losses to the producers who imposed the punitive basing point, but with heavy losses to the recalcitrant who had to make all its sales on this basis. In one instance, where a producer had made a low public bid, a punitive base-point price was put on its plant and cement was reduced 10 cents per barrel. Further reductions quickly followed until the base price at which this recalcitrant had to sell its cement dropped to 75 cents per barrel, scarcely one-half of its former base price of $1.45. Within 6 weeks after the base price hit 75 cents capitulation occurred—

The little fellow had to surrender—

> and the recalcitrant joined a Portland cement association.

He had to join up with the monopoly.

> Cement in that locality then bounced back to $1.15, later to $1.35, and finally it went back to $1.75.

In other words, the big monopolistic companies had forced this small independent company to adopt the price of the big monopolistic company.

Mr. LONG. Does not that pretty well show why we could not get any competitive cement bids for all these many years?

Mr. HILL. The Senator is exactly right. Of course that shows why no bids could be gotten. The big fellows fix the price, and if the little fellow does meet the price, the big fellows simply cut the prices in the area served by the little fellow, where the little fellow has his market, so as to force him out of business.

I should also like to read from the trial examiner's report of what happened to a small cement company in my own State of Alabama, when it tried to reduce its prices below those prescribed by the big corporations which prescribed the basing-point price. This company was out of business within 5 months. It had been driven to the well, and then bought up by one of the large national corporations.

One can imagine how much that big corporation paid for this poor little company, after it was squeezed to death.

Now I wish to quote from the trial examiner's report:

> During the latter part of 1927 the Warrior Cement Co., which operated a plant at Spocari, Ala., made some prices which were lower than the prevailing prices in their territory based on Birmingham, Ala. Lone Star then quoted in the Spocari territory prices based on Warrior's mill, using the mill net of the latter's cut price as the new base price at Spocari. This had the effect of preventing Warrior from ever receiving a greater mill net than it had from the offending cut price. Lone Star kept this low base at Spocari until May 1928, when it acquired the Warrior mill. This mill was especially favored as to easily workable stone and low transportation rates. The Spocari mill was regarded as an outlaw mill. The Spocari plant was underselling—

Think of it, Senators—

> to the extent of giving customers a freight advantage which it deducted from open quotations based on North Birmingham. This base was put in December 5, 1927, and the mill was acquired by Lone Star on April 28, 1928.

It survived, as I said, 5 months.

I emphasize that the Warrior mill was not an inefficient mill. In fact, the trial examiner observed that it was especially favored as to easily workable stone and low transportation rates.

This is only a very small sample of the ways in which the basing-point system has been used to retard industrialization in the South and to maintain high prices in the South. I cannot believe that any such system which penalizes and retards the development of some sections of the country can be good for the country as a whole. Nor do I believe that any Member of this body would want to pass legislation which might have the effect of fostering such a monopolistic and oppressive system.

Mr. President, as I said in the beginning, I believe the bill constitutes a grave danger to our American free-enterprise system. If monopoly and monopolistic practices continue and if the American people reach the point of believing that the monopolistic system cannot be ended, that they must accept it and live under it, then they are going to say, "If we must have a monopoly, we will have the Government as the monopoly. We will have Uncle Sam as the trustee of all the people, to own and hold and operate this monopoly."

I am for the free-enterprise system. The astounding thing to me is that many persons who hate and fear most the destruction of the free-enterprise system, embrace and advocate and take to their bosoms these very steps which in the end will prove the destruction of the free-enterprise system.

Mr. President, the bill should be rejected. It should never be placed upon the statute books as we move forward to discourage and break down, to prevent and defeat monopoly, and to preserve the free American enterprise system.

Mr. MORSE. Mr. President, I wish to associate myself with the very able and penetrating observations set forth in the very fine speech made by the Senator from Alabama [Mr. HILL]. In proceeding with my discussion in support of the general thesis so ably defended by the Senator from Alabama, I wish to say that I contemplate speaking for about 30 minutes. In view of the lateness of the hour, I thought I should make that announcement, because I take it for granted that we are not going to vote tonight. I speak only so that those of us who are in favor of the motion to reconsider may complete our record today and Senators may have our brief points of view available for their reading tomorrow.

At the outset, Mr. President, let me say that I am greatly disappointed that it is necessary to debate the motion to reconsider, because in checking into the past practice of the Senate I find that almost always, under such parliamentary circumstances as confront us in this instance, it has not been necessary to press for a motion to reconsider; but, as a matter of senatorial courtesy, such action as may have been taken to send a particular bill to conference has been rescinded by unanimous consent if there was a misunderstanding at the time the motion was made to send it to conference.

I express, without any reflection on any colleague, my keen disappointment that this question was not handled by way of the common law of senatorial courtesy which prevails in the Senate under such circumstances, because Senators will find very few instances, at least in recent years, in the Senate of the United States, when, under circumstances such as this, a bill has not been called back by unanimous consent. I make that comment because I think it is fair at least to assume, or hypothesize, that the insistence upon the part of the proponents of the bill that reconsideration should not be given to the action taken by the Senate, indicates a doubt on their part as to the merits of their

position so far as the bill itself is concerned. Although they have the parliamentary right to follow the course of action which they have followed, I say to them most kindly that it does not set a very good pattern for future cooperation in regard to other parliamentary situations in connection with which other Senators may be tempted to exercise, as a matter of strategy, their full parliamentary rights.

I desire to make very clear, Mr. President, that the junior Senator from Oregon has not and does not intend ever to deny to his colleagues in the Senate under similar circumstances full senatorial courtesy.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. MORSE. I shall yield in a moment. The junior Senator from Oregon is never going to be guilty of taking advantage of a technical situation in the Senate in order parliamentarily to strengthen his position in having his way on the substance of a particular bill, as I think is being done by the proponents of the bill in this case. I express the personal view that it is a bit unfortunate that the proponents of the bill are insistent upon their technical rights, when I take it that it is pretty well known that the proponents of the bill appreciate the fact that the Senator from Louisiana [Mr. LONG] fully intended to raise this question before the motion was made to send the bill to conference. Had he been present the motion would not have gone uncontested. Many times on a calendar day, after action has been taken on a bill, minutes—and sometimes hours—later, by unanimous consent, we agree to restore to the calendar a bill which technically has been passed, because some Senator misunderstood or was not present, and wished to make an objection. As a matter of senatorial courtesy we permit the objection to be raised.

I do not dwell on that point, except to say that I think we should remember that probably in the long run nothing is gained in the Senate by taking technical advantage of a colleague under the rules, because there is always another day.

I now yield to the Senator from Louisiana.

Mr. LONG. Mr. President, let me say to the Senator that I am sure he agrees that many things are done in the Senate by gentlemen's agreement, including such things as this. When this bill came back with the House amendments, I was ready, and the junior Senator from Tennessee [Mr. KEFAUVER] suggested to the Senator from Nevada that we were ready to move that the Senator concur in the House amendments, but for some reason the Senator from Nevada did not care to proceed at that time. He said that he would let us know when he was ready. Then without notice, and when the junior Senator from Tennessee was in some other part of the Chamber explaining to another Senator what he intended to propose. the motion was made to send the bill to conference, and no Senator who was interested in opposing the measure knew what had happened when the motion to send the bill to conference was agreed to.

Mr. MORSE. I am glad to have the comments of the Senator from Louisiana.

I have tried to make clear that I think it is most unfortunate that the Senator from Louisiana was not granted what I have been pleased to call senatorial courtesy in this matter. Because of his subsequent statement of the misunderstanding in regard to what happened, I think, as a matter of courtesy, he was entitled to the unanimous consent of this body that the motion to send the bill to conference be held in abeyance so that he could make his objections to its going to conference, and we could have a debate on the merits. The RECORD should be perfectly clear that it would appear that the reason why the proponents of the bill do not want to extend that common pattern of senatorial courtesy to the Senator from Louisiana is that they want to take refuge in the protection of a technicality in the rule. I express my regrets about that. It does not make me happy. I do not like to see the use of technical rules in a situation such as that, when it is perfectly clear that one of our Members in good faith labored under a misunderstanding. Of course, his misunderstanding—and I refer to the misunderstanding of the Senator from Louisiana—leads to misunderstanding in the country in regard to this situation.

Without taking time to read it, I ask permission to insert in the RECORD at this point as a part of my remarks a letter which I have received from Mr. R. H. Rowe, vice president and secretary of the United States Wholesale Grocers Association, in which he makes certain comments not only on the bill, but on the parliamentary predicament in which the Senate now finds itself. To give an example of the type of misunderstanding which I think is developing in the country, he attaches to his letter a bulletin which his association has issued, which apparently has had widespread circulation. It makes comments on the parliamentary situation in which we find ourselves. I ask that the letter and the bulletin be printed in the RECORD at this point as a part of my remarks.

In doing so I wish to make it perfectly clear that I do not share any possible implication which might be drawn from the bulletin reflecting upon the motivation of any Member of the Senate, because I do not believe there is a single proponent of the bill who is not just as sincere in his advocacy of the bill as I am in my opposition to it, and as other Senators who have spoken today in opposition to the bill are sincere. But I think the letter and bulletin afford an interesting bit of information as to the reaction which exists in some quarters of the country. They show the type of interpretation which may be placed upon the parliamentary strategy which is being used in connection with this matter.

There being no objection, the letter and bulletin were ordered to be printed in the RECORD, as follows:

UNITED STATES WHOLESALE GROCERS' ASSOCIATION, INC.,
Washington, D. C., July 28, 1949.

Hon. WAYNE MORSE,
Senate Office Building,
Washington, D. C.

DEAR SENATOR MORSE: We take the liberty of enclosing a copy of a bulletin being sent to wholesale grocers on the present status of S. 1008 (the basing-point delivered-pricing bill).

You will note that we believe that S. 1008 is a bad bill as a whole. It confuses the issue of basing-point practices as such with another issue, namely, the problem of individual delivered pricing. It makes unnecessary and ambiguous changes in the language of the Robinson-Patman Act which can weaken that act and therefore should be sent back to the Senate Judiciary Committee for further study or else rejected.

We further believe, however, that a much worse bill from the viewpoint of independent business will likely come from a Senate-House conference on this measure and therefore in default of sending the bill back to the Judiciary Committee or of rejecting it, we support the position of Senators LONG, KEFAUVER, and other Senators to have S. 1008 passed as it came from the House rather than having it sent to conference.

We respectfully ask that you give consideration to these views in your further study of this legislation.

Sincerely,

R. H. ROWE,
Vice President and Secretary.

NEW FAST MOVE IN SENATE TO RAILROAD S. 1008—PRESIDENT TRUMAN AGAINST WEAKENING ROBINSON-PATMAN ACT

Senator PAT MCCARRAN, Democrat, Nevada, chairman of the Senate Judiciary Committee, in the course of the Senate proceedings on July 26, unexpectedly moved that the Senate disagree to the amendments made by the House (Carroll amendments) and ask a conference with the House and that the Chair appoint the Senate conferees. The Senate thereupon agreed to the motion and Vice President BARKLEY appointed the following Senate conferees: Senators PAT MCCARRAN, HERBERT R. O'CONOR, Democrat, Maryland; and ALEXANDER WILEY, Republican, Wisconsin. Senator LONG, Democrat, Louisiana, shortly afterward moved that the McCarran motion be reconsidered. Senator LONG's motion will be voted on at a later time. It blocks for the present the efforts that have persistently marked the progress of the O'Mahoney version of S. 1008, namely, to railroad this legislation through Congress.

Senator LONG and other opponents of any measure that would weaken the antitrust laws want the McCarran motion reconsidered and an opportunity afforded to urge passage of the bill, S. 1008, as it came from the House with the Carroll amendments rather than send the measure to conference with the House.

At the time the McCarran motion was voted by the Senate, Senator LONG was not on the Senate floor. He was conferring with Senator JOSEPH C. O'MAHONEY, Democrat, Wyoming, on possible comprise in language of S. 1008, and Senator ESTES KEFAUVER, Democrat, Tennessee, was talking with the Presiding Officer, and did not hear Senator MCCARRAN's motion. Barely a quorum of the Senate was present at the time.

Senator LONG charged that Senator MCCARRAN's sudden move violated a previous understanding that Senator MCCARRAN would give prior notice when S. 1008 would be called up for action. The House will not likely appoint its conferees until after the Senate acts on Senator LONG's motion to reconsider.

On the same day these Senate proceedings were taking place, President Truman was expressing to Congressman RAYMOND W. KARST, Democrat, Missouri, foe of S. 1008, his opposition to any legislation that would weaken the Robinson-Patman Act.

Congressman KARST, on July 27, dictated to the United States Wholesale Grocers' Association, the following account of his interview with President Truman on S. 1008:

"I called on the President yesterday. We had a very nice visit. We discussed the Senate bill 1008, which is the basing-point, delivered-pricing bill, and the President expressed to me that he was not familiar with

the contents of the bill, had never spoken to anyone about it, but if the bill was introduced by Senator O'MAHONEY, he believed it would be a bill to protect small business. I pointed out to him the intent of the bill, and he expressed dissatisfaction with any legislation that would repeal the Robinson-Patman Act, which was a protector for small business. He also expressed to me that he was against the basing-point system which created monopoly. He implied that he would be opposed to any legislation which would harm small business. He said he would be against the bill if it contained the objectionable features which I pointed out to him. I feel much encouraged over my interview with the President on this matter."

In the present circumstances the best thing that could be done with S. 1008 is send it back to the Senate Judiciary Committee for further study including open public hearing, which S. 1008 as presently worded has never received, or else to reject it.

It is a bad bill as a whole. It confuses the issue of basing-point practices as such, with another issue, namely, the problem of individual-delivered pricing. It makes unnecessary and ambiguous changes in the language of the Robinson-Patman Act that can weaken that act. It should not pass without further thoroughgoing consideration.

But we believe that a much worse bill from the viewpoint of independent business will likely come from Senate-House conference and therefore support efforts of Senators LONG and KEFAUVER and other Senators to pass the House version rather than risk a worse version from the conference committee.

Mr. MORSE. Mr. President, the Carroll amendment adopts the present wording of the Robinson-Patman Act in regard to effect on competition exactly as it is. This is the virtue of the amendment. There is no change whatever in the existing language in this particular connection. As Mr. Carroll himself pertinently stated: "The amendment, therefore, is so simple that even a lawyer can understand it." Mr. Carroll's amendatory language is:

Except where such absorption of freight would be such that its effect upon competition may be that prohibited by this section.

Thus he adds no new words which would require construction by the courts, and thus open the doors for protracted litigation. His amendment simply refers back to wording already contained in the existing section of the Robinson-Patman Act. This section is section 2 (a) of the Clayton Act, as to which the pertinent wording reads as follows:

Where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly.

I think we should take careful note that the present wording is "may." All that the Federal Trade Commission has to prove is that the effect of the discrimination may be to substantially lessen competition. It is not necessary to prove that the effect will substantially lessen competition. It was recognized, in inserting this wording in the Robinson-Patman Act, that it would be an almost insufferable burden to compel the Federal Trade Commission to prove that the effect of the discrimination necessarily lessens competition. It was deemed sufficient if the Government could show that the effect may substantially lessen competition. To require a greater showing of proof might mean that no case could be proved at all in most instances. I believe that would follow. The proceeding before the Federal Trade Commission is not a criminal proceeding. In many respects it is even less than an ordinary civil proceeding; it seeks to deter violations of the law at their incipiency and looks forward to restraining orders to prohibit the continuation of violations.

There has been considerable discussion in this debate thus far as to the Kefauver amendment. I think we should keep in mind the fact that the Kefauver amendment—quite inadvertently to be sure—is in the nature of a "will" amendment. It reads as follows:

Except where the effect of such absorption of freight will be to substantially lessen competition.

Under the wording of this amendment, the Federal Trade Commission most probably would be held to the duty of proving that the effect of freight absorption would actually, as a matter of fact and of necessity, be to substantially lessen competition. This is a burden of proof which most lawyers in this field, whether on the Government side or on the other side, would agree would not, as a matter of fact, be met in very many cases.

The Senator from Tennessee has assured us that he did not intend this result. His language was drafted very hurriedly, and at the very last moment, in order to try to bring up something which would not completely extinguish the pertinent language in the existing Robinson-Patman Act. The Senator from Tennessee has naturally endorsed the Carroll amendment, in preference to his own.

All sincere proponents of the Kefauver amendment should be as forthright as the Senator from Tennessee himself in preferring the Carroll amendment to the Kefauver amendment. The only purpose of the Kefauver amendment was to prevent the emasculation of that particular part of the Robinson-Patman Act. If the wording of the Kefauver amendment is not sufficient for that purpose, and if the Carroll amendment is, then the Carroll amendment should be endorsed by the friends of the Robinson-Patman Act.

On the other hand, if by inadvertence the Kefauver amendment does a disservice to the Robinson-Patman Act, it seems strange that any proponent of this bill with the Kefauver amendment should insist upon retaining the Kefauver amendment.

The proponents of Senate bill 1008 have consistently maintained that their objective was merely a congressional declaration that delivered prices and freight absorption were lawful. They never took the position that they were interested in scuttling the Robinson-Patman Act. The particular provision involved here is a substantive provision—far more important, even, than any procedural provisions.

Mr. DOUGLAS. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. MURRAY in the chair). Does the Senator from Oregon yield to the Senator from Illinois?

Mr. MORSE. I yield.

Mr. DOUGLAS. Is it not true that there is involved in this bill not merely the question of the Robinson-Patman Act and the legitimacy of discounts, but also the basing-point system?

Mr. MORSE. I am inclined to think that is true.

Mr. DOUGLAS. Is it not also true that the Carroll amendment to section 2, although it has a worthy purpose, is not sufficient to guard against the danger that the basing-point system will be legitimized by Senate bill 1008?

Mr. MORSE. I shall have to leave that to the courts to decide.

Mr. DOUGLAS. I mean it raises a distinct question.

Mr. MORSE. I think it leaves doubt.

Mr. DOUGLAS. Therefore, is it the opinion of the Senator from Oregon that even with the Carroll amendment, Senate bill 1008 creates more dangers than it resolves difficulties; and, therefore, would it not be in the public interest to have Senate bill 1008 shelved?

Mr. MORSE. I wish we could shelve it and rewrite it and make perfectly clear our position on the basing-point issue. But I am sure the Senator from Illinois will agree with me that the probabilities are that Senate bill 1008 will be finally passed by the Senate. So those of us who wish to do what we can to protect the small-business men of the country from monopoly are in the practical situation of making the best fight we can for the particular provision which we have a fighting chance of having adopted, and I think the only chance we have is to have the Carroll amendment adopted.

Mr. DOUGLAS. But in connection with the attempt to kill the bill, I assume that the Senator from Oregon will join with us in the attempt to kill the bill.

Mr. MORSE. I think there will be a yea-and-nay vote on that question, and the Senator from Illinois can count on me when the vote is had.

Mr. President, there is a matter which deserves much more careful attention by the Senate than it has received to date. It has been referred to on and off, in the course of this debate. I shall not take time even to read all the excerpts from the document I now have in mind, to which I wish to call attention in my speech this afternoon, but I particularly urge the Members of the Senate to study the document, previously introduced into the RECORD on June 1, 1949, by the Senator from New Hampshire [Mr. TOBEY], a document entitled "Identical Bids Under the Basing-Point System."

There are certain sections of this document and certain statistical information contained in it which I wish to make part of my remarks this afternoon.

The document says, in part:

A large body of data has been assembled, showing identical prices, especially for cement and certain steel products, resulting from the use of the basing-point system. These data, which cover a period of more than 20 years, are derived from bids to Government agencies and sales to dealers. This information is supplemented by certain recent bids to Government agencies following

the abandonment of basing-point pricing in July 1948, which reveal the absence of identity in bidding after the system was abandoned.

Under the basing-point system, prices less than the formula price can appear only when some cooperating supplier makes a mistake in applying the formula, or when some noncooperating supplier deliberately shades the base price or freight rates and thereby violates the formula. Bids higher than the formula price are a convenient method by which any freight-wise distant supplier may effectively eliminate himself, while offering a semblence of competition.

Mr. President, the document then goes on to set forth certain very interesting statistical tables.

I read further:

IDENTICAL BIDS FOR CEMENT

Summary of bids to Government agencies: Table I presents a summary of identical bids in the cement industry over a period of more than 10 years (from 1927 through 1937) as shown by bids submitted to State and Federal purchasing agencies. The figures clearly reveal just how perfectly the basing-point system works automatically to destroy competition and make Federal and State purchasing agencies, and the public they represent, the victims of this monopolistic system.

Mr. President, I ask unanimous consent to have incorporated at this point in the RECORD, as a part of my remarks, table No. 1 of that study. The table is entitled "Cement—Manufacturers' Destination Prices Bid to Government Agencies."

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE I.—*Cement—manufacturers' destination prices bid to Government agencies*

Year	Barrels	Number of destinations	Number of manufacturers bidding [1]	Total number prices bid	Bids at formula prices		Bids above formula prices		Bids under formula prices	
					Number	Percent	Number	Percent	Number	Percent
1927	[2] 453, 545	129	15	1, 359	1, 355	99. 70	2	0. 15	2	0. 15
1929	[2] 9, 035, 027	579	77	7, 713	7, 342	95. 19	237	3. 07	134	1. 74
1930	9, 050, 435	558	59	4, 662	4, 553	97. 66	60	1. 29	49	1. 05
1934	[2] 2, 900, 000	4	12	[4] 38	38	100. 00				
1935	[3] 1, 000	1	8	8	7	87. 50	1	12. 50		
1935	[3] 10, 000	1	3	[5] 6	6	100. 00				
1936	[3] 8, 000	1	18	18	18	100. 00				
1936	[3] 500	1	14	14	14	100. 00				
1936	[3] 6, 000	1	11	11	11	100. 00				
1937	[3] 1, 200	2	15	[4] 29	29	100. 00				
Total	21, 465, 707	1, 277	222	13, 858	13, 373	96. 50	300	2. 16	185	1. 33

[1] Includes duplications where the same manufacturer bids on more than one invitation.
[2] Bids to State highway commission on numerous projects.
[3] Bids to Federal agencies on individual projects.
[4] Some manufacturers did not bid for all destinations.
[5] Counting as separate the bids by individual manufacturers for cement in bulk and in bags.

Mr. MORSE. Mr. President, I read further from the study:

These figures were based on investigations of the Federal Trade Commission in its Price Bases Inquiry (1932), and in its *Cement Institute Case* (37 F. T. C. 87). The 1927 and 1930 bids were all to various State highway commissions for shipment to more than 1,250 destinations in the 9 States of Illinois, Indiana, Iowa, Louisiana, Maryland, Missouri, Oklahoma, South Carolina, and Wisconsin.

The general showing is that, by years, from 95 to 99.7 percent of the bids were identical with the basing-point destination price.

That is a remarkable coincidence, Mr. President.

I read further:

In no year did the number of bids which were at a lower price amount to as much as 2 percent of the total number of bids. Or, to put it another way, the basing-point system produced approximately 99 percent uniformity in price.

What remarkable competition, Mr. President.

I read further:

For the smaller number of bids to Federal agencies during the years 1934 to 1937, inclusive, the showing of uniformity of bid prices is even more striking. For six of the seven individual projects covered, 100 percent of the bids carried identical prices. For the seventh project, seven of the eight bidders named prices strictly in accordance with the basing-point system. One bid higher destination prices, thereby indicating a probable lack of interest in the business.

Taking all of these bids together, out of a total of 13,858 prices bid for shipment to 1,277 different destinations, only 1.33 percent were at prices less than required by the system.

Summary of bids to private dealers: Basing-point proponents claim that destination prices at which cement is invoiced to dealers often differ from the pattern of identity shown by bids to Government agencies. To test the accuracy of this statement, the Federal Trade Commission examined more than 66,000 invoices by 51 cement producers covering shipments to dealers in 21 cities during the years 1927–29. Only 6 percent of the sales, representing practically the same percentage of invoices, deviated from the basing-point system prices. The degree of conformity to basing-point pricing in each of the cities is shown in table 2.

Mr. President, I ask unanimous consent to have table 2, entitled "Manufacturers' Sales of Cement to Dealers at Formula Delivered Prices, 1927–29," printed at this point in the RECORD, as a part of my remarks.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 2.—*Manufacturers' sales of cement to dealers at formula delivered prices, 1927–29*

Destinations	Total sales reported			Sales at formula prices			Percent of total
	Invoices	Shippers	Barrels	Invoices	Shippers	Barrels	
Baltimore, Md	2, 117	13	536, 305	1, 868	13	474, 591	88. 49
Birmingham, Ala	3, 633	9	657, 348	3, 633	9	657, 348	100. 00
Buffalo, N. Y	2, 752	15	681, 866	2, 750	15	681, 366	99. 93
Chattanooga, Tenn	1, 333	5	257, 745	1, 226	5	239, 038	92. 74
Chicago, Ill	14, 881	9	4, 420, 930	12, 129	9	3, 612, 137	81. 71
Cincinnati, Ohio	2, 071	14	438, 899	2, 070	14	438, 699	99. 95
Cleveland, Ohio	8, 716	17	2, 392, 887	8, 716	17	2, 392, 787	100. 00
Detroit, Mich	6, 069	14	2, 224, 298	4, 988	14	1, 960, 618	88. 15
Ensley, Ala	773	7	137, 374	773	7	137, 374	100. 00
Hedona, Ala	608	7	128, 833	608	7	128, 833	100. 00
Indianapolis, Ind	2, 797	11	732, 244	2, 766	11	724, 878	98. 99
Madison, Wis	1, 319	11	352, 182	1, 319	11	325, 182	100. 00
Minneapolis, Minn	1, 879	11	877, 555	1, 242	11	729, 420	83. 12
New York, N. Y	6, 457	17	5, 367, 916	6, 547	17	5, 367, 916	100. 00
Norfolk, Va	430	5	67, 930	430	5	67, 930	100. 00
Philadelphia, Pa	3, 296	15	813, 803	3, 296	15	813, 803	100. 00
Pittsburgh, Pa	93	7	23, 451	93	7	23, 451	100. 00
Richmond, Va	753	7	129, 346	753	7	129, 346	100. 00
St. Louis, Mo	4, 494	7	907, 990	4, 494	7	907, 990	100. 00
Washington, D. C	1, 295	10	426, 412	1, 295	10	426, 412	100. 00
Wilmington, Del	391	7	101, 453	391	7	101, 453	100. 00
Total	66, 157	[1] 51	21, 649, 667	61, 297	[1] 51	20, 340, 572	93. 95

[1] Exclusive of duplications.

(Source: FTC Price Bases Inquiry: Basing-Point Formula and Cement Prices, p. 58.)

Mr. MORSE. Mr. President, I continue to read from the document:

Every shipper quoted identically the same destination price on every invoice to dealers in 13 of the 21 cities. For 4 more cities, invoice prices were identical for 99 percent or more of the tonnage.

This striking price identity in 17 cities was, of course, no accident, since every one of the 51 shippers observed the system in pricing most of the tonnage shipped. Unintentional errors might well account for most of the few deviations shown for the 17 cities.

Only 4 cities showed less than 90 percent price identity, the largest deviations occurring in Chicago. It is interesting to note that one producer local to Chicago and another local to Baltimore accounted for all deviations in each of these cities.

Resubmission of identical bids: Dissatisfied with the constant submission of identical bids, Government purchasing agencies, particularly during the 1930's, made repeated

efforts to secure competitive bidding—with little success. The original submissions would be thrown out, followed by readvertisement for new bids, which upon being submitted would again be found to be exactly identical.

To illustrate that, Mr. President, I ask unanimous consent to have inserted at this point in my remarks table 3, an abstract of bids for furnishing and delivery approximately 1,200,000 barrels of Portland cement for use in the construction of Tygart River Reservoir Dam, received in response to advertisement and specifications.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 3.—*Abstract of bids for furnishing and delivering approximately 1,200,000 barrels of portland cement for use in the construction of Tygart River Reservoir Dam, received in response to advertisement and specifications, serial No. 35-224, dated Jan. 7, 1935, and opened at United States engineer office, Pittsburgh, Pa., Jan. 18, 1935*

[Serial No. 35-224]

No.	Name and address of bidder	Price per barrel
1	Southwestern Portland Cement Co., Osborn, Ohio	$1.84

TABLE 3.—*Abstract of bids for furnishing and delivering approximately 1,200,000 barrels of portland cement for use in the construction of Tygart River Reservoir Dam, received in response to advertisement and specifications, serial No. 35-224, dated Jan. 7, 1935, and opened at United States engineer office, Pittsburgh, Pa., Jan. 18, 1935*—Continued

No.	Name and address of bidder	Price per barrel
2	The Bessemer Limestone & Cement Co., 1106 City Bank Bldg., Youngstown, Ohio	$1.84
3	Universal Atlas Cement Co., 518 Frick Bldg., Pittsburgh, Pa	1.84
4	West Penn Cement Co., 223 South Main St., Butler, Pa	1.84
5	Lehigh Portland Cement Co., 718 Hamilton St., Allentown, Pa	1.84
6	Standard Portland Cement Co., 925 Midland Bldg., Cleveland, Ohio	1.84
7	The Diamond Portland Cement Co., Middle Branch, Ohio	1.84
8	Wabash Portland Cement Co., First National Bank Bldg., Detroit, Mich	1.84
9	Superior Cement Corp., Portsmouth, Ohio	1.84
10	Coplay Cement Manufacturing Co., 521 Fifth Ave., New York, N. Y	1.84
11	Alpha Portland Cement Co., Easton, Pa	1.84
12	The Washington Building Lime Co., 2004 First National Bank Bldg., Baltimore, Md	1.84
13	Huron Portland Cement Co., 1325 Ford Bldg., Detroit, Mich	1.84
14	Medusa Portland Cement Co., 1000 Midland Bldg., Cleveland, Ohio	1.84
15	Lawrence Portland Cement Co., 270 Broadway, New York, N. Y	1.84
16	Green Bag Cement Co. of Pennsylvania, 2119 Oliver Bldg., Pittsburgh, Pa	1.84

TABLE 3.—*Abstract of bids for furnishing and delivering approximately 1,200,000 barrels of portland cement for use in the construction of Tygart River Reservoir Dam, received in response to advertisement and specifications, serial No. 35-224, dated Jan. 7, 1935, and opened at United States engineer office, Pittsburgh, Pa., Jan. 18, 1935*—Continued

No.	Name and address of bidder	Price per barrel
17	Pittsburgh Plate Glass Co., Columbia Cement Division, 2130 Grant Bldg., Pittsburgh, Pa	$1.84

Appropriation: 8.05678.5 PWA allotment to War; rivers and harbors, 1935 (Tygart River Dam, W. Va., 8.03/5640.5 N. I. R. War, rivers and harbors, 1938-35 (Tygart River Dam, W. Va.).

I certify that the above is a true abstract of all bids received.

JOHN SERGAN,
Chief, Purchasing Section.

Mr. MORSE. I also ask unanimous consent to have placed in the RECORD at this point in my remarks table 4, entitled "Advance Abstract of Cement Bids."

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 4.—*Advance abstract of cement bids*

[Serial No. 35-264]

Name and address of bidder	Location of plant	Railroad freight rate to Grafton (cents per barrel)	Distance from plant to Grafton (miles)	Will bidder accept whole order?	Amount of order preferred by bidder (barrels)	Price per barrel f. o. b. dam site
Lehigh Portland Cement Co., Young Bldg., 718 Hamilton St., Allentown, Pa.	Union Bridge, Md	0.5076	221½	Yes	1,200,000	$1.70
Do	New Castle, Pa	.5076	201½			
The Bessemer Limestone & Cement Co., 1106 City Bank Bldg., Youngstown, Ohio.	Bessemer, Lawrence County (railroad name, Walford, Pa.).	.5076	194.0	No	500,000	1.70
West Penn Cement Co., Butler, Pa	West Winfield, Pa	.49	176.9	Yes	1,200,000	1.70
Standard Portland Cement Co., 925 Midland Bldg., Cleveland, Ohio.	Painesville, Ohio	.63	272.4	No	450,000	1.70
Wabash Portland Cement Co., Detroit, Mich	Osborn, Ohio	.63	290.7	No	400,000	1.70
Pittsburgh Plate Glass Co., Columbia Cement Division, 2129 Grant Bldg., Pittsburgh, Pa.	Fultonham, Muskingum County, Ohio	.55	182.0	Yes	1,200,000	1.70
The Washington Building Lime Co., 2004 First National Bank Bldg., Baltimore, Md.	Martinsburg, W. Va	.49	165.0	No	540,000	1.70
Alpha Portland CementCo., 15 South Third St., Easton, Pa.	Manheim, W. Va	.3008	31.0	Yes	1,200,000	1.70
Universal Atlas Cement Co., 518 Frick Bldg., Pittsburgh, Pa.	Universal, Pa	.4324	148.2	Yes	1,200,000	1.70
Green Bag Cement Co. of Pennsylvania, 2119 Oliver Bldg., Pittsburgh, Pa.	Neville Island, Pa	.46	157.9	Yes	1,200,000	1.70
Medusa Portland Cement Co., 1000 Midland Bldg., Cleveland Ohio.	Crescentdale, Pa., post office Wampum, Pa.	.5076	180	Yes	1,200,000	1.70

Mr. DOUGLAS. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Oregon yield to the Senator from Illinois?

Mr. MORSE. I yield.

Mr. DOUGLAS. Is the Senator from Oregon aware of the fact that when the Government built the Fort Peck Dam in Montana, the proper officials advertised for bids on steel sheets; that 17 steel companies submitted bids, which were identical; and that the Secretary of the Interior, Harold L. Ickes, at that time, rejected the bids and asked for resubmission? I may add that in the case of the bidding for cement for the Fort Peck Dam the bids submitted were also identical.

Mr. MORSE. The Senator from Oregon is not familiar with the facts the Senator has just mentioned, but he is not at all surprised, because they illustrate a characteristic pattern which seems to be prevalent in submitting bids to the Government on such items as steel and cement.

Mr. DOUGLAS. Is it not true that the identical prices which are quoted can be explained in each and every instance by the base price which the leader of the industry declares, plus the freight rate from the basing point to the point where the goods are delivered?

Mr. MORSE. I have never heard nor read any evidence to the contrary by any of those who take a position contrary to that taken by the Senator from Illinois and the Senator from Oregon on this issue.

Mr. DOUGLAS. And this identity of prices can be arrived at without the parties ever meeting, without their ever being together, but simply by the so-called dealer in the industry declaring prices at a given basing point, thus enabling the other companies having freight-rate books to choose that as their base and to mark up the freight from the basing point to the places where the goods are delivered. So they pursue a common purpose, even though they do not formally conspire?

Mr. MORSE. Such manipulations as the Senator from Illinois has just described create the formula the parties follow, resulting in the identity of bids.

Mr. DOUGLAS. And they can follow this formula without ever actually physically conspiring together?

Mr. MORSE. There can be no doubt about that.

Mr. DOUGLAS. The effect is, is it not, to suppress competition?

Mr. MORSE. I think the effect is to kill competition.

Mr. DOUGLAS. And to create a level of prices higher than would be the case under competition?

Mr. MORSE. No doubt, and to squeeze out and freeze out the small producer.

Mr. DOUGLAS. Furthermore the higher level of prices under this cartel system than the level which would prevail under competition necessarily results in a smaller quantity of goods being demanded than would be the case if the prices were competitive?

Mr. MORSE. I think that is bound to be one of the economic effects of this nefarious practice.

Mr. DOUGLAS. Consequently, with the smaller quantity of goods being demanded, a smaller quantity of goods is necessarily produced?

Mr. MORSE. And as a result, fewer jobs are created.

Mr. DOUGLAS. Fewer jobs are created, greater unemployment is created, and business depressions are intensified?

Mr. MORSE. Monopoly is always a forerunner to depression.

Mr. DOUGLAS. So we are dealing here with one of the very vital issues affecting the lifeblood of the country and the whole future of the country, are we not?

Mr. MORSE. I think so. Indeed, when all is said and done, dry as the subject is, difficult as it is to get the average citizen and the average businessman, I may say, to study the monopolistic problem confronting the country, the danger of monopolistic control of the economy is the greatest threat today to the free-enterprise system, which is the lifeblood of the small-business man.

Mr. DOUGLAS. This bill would, perhaps, fasten monopoly more firmly upon the country than any other bill which has ever been before the United States Congress, at least in recent years. Is that not so?

Mr. MORSE. I answer by saying that, if I thought it would promote free enterprise, I should be supporting it.

Mr. DOUGLAS. But in the Senator's judgment, it would weaken free enterprise and increase the strength of monopoly, would it not?

Mr. MORSE. I think it would do much to make the small-business man of the main streets of America the economic servant of American monopolies.

Mr. DOUGLAS. And would it not also increase the prices which the ultimate consumers have to pay?

Mr. MORSE. Unconscionably so.

Mr. DOUGLAS. Therefore it would contribute to great profits on the one hand and unemployment on the other?

Mr. MORSE. That is what I mean when I say monopolistic control is always the forerunner of depression; first, in a particular section where it comes to bear upon the economic life, in the first instance, and then gradually, as its effects spread to the entire economy of the country.

Mr. CAPEHART. Mr. President, will the Senator yield?

Mr. DOUGLAS. If I may ask a question or two more. Does not the Senator feel that many business interests are therefore extremely short-sighted in urging this policy, the effect of which would be to reduce competition and to weaken business conditions in general?

Mr. MORSE. I think the big-business interests are exceedingly short-sighted about it, but I believe the great majority of American businessmen who have taken the time to study the problem see the danger of the creeping paralysis which is spreading through the bloodstream of our economy as the result of monopolistic infection.

Mr. DOUGLAS. Therefore, while some Senators may be somewhat bored by the discussion which has been going on for the past 2 days about the nature of the basing-point system, if this information could be spread over the country, it would have a very healthful effect in educating public opinion and business opinion to the gravity of the issues we are discussing?

Mr. MORSE. I would not share the view of the Senator from Illinois that any of our colleagues have become bored. I think they are merely tired, and I think the attitude toward this bill is another good illustration of the desirability of our recessing at a rather early date, so we can go back to our constituents, talk to them, let them talk to us about some of these problems, and then come back, say, in November and proceed to consider this and other matters on their merits. I mean no reflection on the Senate when I say I think it is increasingly difficult to get these issues considered on their merits at this time, because Senators are tired. We are being pressed by a great many demands back home to give our attention to issues which the people want to talk to us about. We are overlooking the fact that in a system of representative government there is a duty on our part to go back home frequently in order to find out what the people want, and then, after such a refresher course, to come back to the Capitol and proceed to put into legislation the crystallized public opinion of our constituents.

Mr. CAPEHART. Mr. President, will the Senator yield?

Mr. DOUGLAS. I should like to ask a few more questions.

Mr. MORSE. I will yield to the Senator from Illinois, and then to the Senator from Indiana, who, on many occasions, I have heard call attention to the great dangers of monopolistic control in the United States.

Mr. DOUGLAS. Does not the Senator from Oregon feel that the No. 1 domestic problem is the lessening of the power of monopoly and of cartels?

Mr. MORSE. I really think so. I believe that is the first step we must take as a preventive of a depression.

Mr. DOUGLAS. If we have strong cartels and strong monopolies, the distribution of wealth and income will be less equitable and more unequal, business depressions will be more intense, and economic power will be concentrated in fewer hands. Is not that correct?

Mr. MORSE. That is correct. It gives rise to increasing demands for more and more statism as a way of checking totalitarian control of our economy by concentrated wealth. On the one hand, we have the tendency of the monopolists to want to take more and more of the economy under their control, which leads to what I call a totalitarian economy in fact; and to offset that, because people suffer as a result of it, we play into the hands of political leaders who, in order to offset the cartelists and monopolists, would have the Government take over the entire economy by way of state control. Both are totalitarian principles to which I am opposed, as I know the Senator is opposed to them. Our job is to try to lead the country into what I have been pleased to call so many times the sound middle-road course of a private-enterprise system under which the Government functions as an umpire and a checker of abuses.

Mr. DOUGLAS. To keep the stream of competition open.

Mr. MORSE. If we do not keep the stream of competition open, we shall have some form of totalitarian economy. There are many totalitarian economies. We can have the totalitarian economy of monopoly · we can have the totalitarian economy of communism, or we can have the totalitarian economy of state socialism. I shall always be counted among those who are fighting all those forms of totalitarianism.

Mr. DOUGLAS. Is it not true that the socialization of industry in Great Britain was fostered by the fact that industries had already become monopolized by one or two firms, and the people said, "If we must have a monopoly which we cannot control, or one which we can control, we shall choose a public monopoly"? Is not the best protection against widespread socialism an attempt to restore a good system of distribution?

Mr. MORSE. I agree with the Senator; but should like to add a comment on the British situation; I think there were other factors which were a part of the cause of the development of a program of state socialism in Great Britain. I want to make it clear that one reason why I voted against the Kem amendment to the ECA bill was my feeling that the fight for freedom which we are making round the world rests upon the principle of freedom of choice, and so long as freedom of choice is exercised by the people of Great Britain or France or Norway or Denmark or any of the other ECA countries, we must not, as Americans, play into the hands of the Russians by saying that we are going to insist upon the adoption in those countries of our notions of a capitalistic economy which we think is best for those people. If we cannot convince them on the basis of freedom of choice, then we have no right, in a common-defense program, which ECA is, after all, to say, "You cannot get any funds from us through ECA unless you adopt our economic theories."

Mr. DOUGLAS. The Senator from Oregon, like a true liberal, aims to break up power and diffuse it in a large number of small groups, rather than to concentrate it in big government or in big business.

Mr. MORSE. Quite so. For many years I have been a devotee of the Brandeis philosophy that we must keep our

eyes on bigness. Bigness is not necessarily bad, but it can be bad.

Mr. DOUGLAS. The basing-point bill which we have before us would give to industries a power independently to stifle competition because of the fear of small firms that if they got out of line they would be punished by the big firms.

Mr. MORSE. I think that is quite true.

I should like to add this comment in connection with the point the Senator has raised concerning the economic trend in England. When I was in England, in the fall of 1946, I remember a dinner I attended in Edinburgh, at which a large number of prominent businessmen of that city were present. I asked many questions, because I was seeking information. It was at that time that some of the major nationalization proposals of different segments of the economy of Great Britain were before the Parliament. I had spent the entire day previous to this dinner as an observer in the House of Commons. I listened to the debate on the proposal for the nationalization of the British transportation system, which, incidentally, was a very disappointing debate, in my opinion, in that the so-called conservatives made exceedingly able speeches which called for answers by the members of the labor side of Parliament, but the answers were made principally with jeers, wisecracks, and jokes, rather than coming to a clash in the controversy over policy, principle, and fact. Of course that is one of the dangers of any political alinement based on economic class consciousness, and we need to watch out for it in this country.

But what I was about to say in regard to the information given me at the dinner in Edinburgh was that I asked businessmen there whether, if the Conservatives had remained in power, they would have put into operation the system of controls, which included a system of price controls and economic controls much more drastic than any system we ever adopted in this country, even under OPA. I got an answer with unanimity. These businessmen said, "Senator, we want to be perfectly honest with you about this. If our party were in control of Parliament today we would have to put those controls into practice, for the simple reason that we are confronted with scarcity in Great Britain, and it is a governmental obligation to see to it that the necessities of life are distributed to our people under the strictest type of governmental control, as a matter of public necessity."

It is only fair to say it in view of a great deal of prejudice which I think is developing in America in respect to what is happening in Great Britain as to economic policies now prevailing.

I do not wish to be interpreted as saying that I approve the present economic policies in Great Britain, and I am sure I would disapprove of most of them if someone tried to superimpose them on my country. But I do want to make the point that in the war years, and immediately thereafter, any political party in Great Britain, I was advised when I was over there, would have been forced to put into practice a widespread system of controls, because the people were confronted with a break-down of their economy and with a scarcity of economic goods which are necessities of life.

I add one more comment as indicative of another reason why I opposed the Kem amendment the other day; and it seems to me there is a thread of principle which runs through that controversy into this controversy. We might just as well recognize the fact that we are fortunate in America that we can enjoy the great economic freedoms and liberties of the capitalistic system, because we are able to live under an economy of abundance due to the natural resources of our country. A reading of the economic history of the nations of the world demonstrates very clearly that whenever a people of a country cannot live under an economy of abundance resulting from God-given natural resources, the state must necessarily exercise greater control over the economic life of the people than I hope will ever be necessary in our country. I shall give an example or two, because this is tied up with the ECA problem.

Let us take the case of Norway. Does any opponent of ECA really think that Norway can possibly avoid a large amount of governmental control over her economy, which we have come to label "socialism"? The reality is that in many European countries, where the people have to live, after all, under an economy of scarcity, it becomes an inescapable function of the government to protect the people as a whole from selfish interests which might obtain monopolistic control over some segment of the economy. No government would be worthy of the name "government" if it did not proceed to step in to protect the interests of the public in such a situation as that.

Mr. DOUGLAS. Mr. President——

Mr. MORSE. One more moment, and I shall yield. That explains the so-called socialistic pattern of so many of the countries under the ECA arrangement, and it is a pattern which existed long before the war, but not to the degree to which it presently exists in England, because before the war England did have an economy of abundance produced by the great natural resources of her colonies. But her control over those resources is more and more being taken away from her as the fight for freedom progresses throughout the world. So in these days she is finding herself faced with the reality of an economy of scarcity. Thus she finds it necessary, in the interest of protecting the people as a whole, to exercise greater and greater state control. It is a sad picture. It is a regrettable fact. But I say to the Senator from Illinois that I have heard on the floor of the Senate much discussion about the economic problems of Great Britain that represents a running away from the realities which face the British Parliament. I am satisfied that if the Conservatives should come into power next week, they, too, would find it necessary to exercise stringent controls over the economy of Great Britain in order to protect the welfare of the people.

I now yield to the Senator from Illinois.

Mr. DOUGLAS. Mr. President, is it not true that in Great Britain there has been no law prohibiting monopolies or cartels? Monopolies and cartels were legal, and therefore they were not prosecuted or impeded by the Government, and they developed to such a point that virtually every industry was controlled by one or a few firms.

Mr. MORSE. Of course, that was an inseparable part of the colonial, imperialistic policy of Great Britain for centuries.

Mr. DOUGLAS. British writers always speak about the benefits of competition, but they have had no laws to enforce competition.

Mr. MORSE. That is correct.

Mr. DOUGLAS. The result was that each industry began to be taken over by a few firms.

Mr. MORSE. Plus the fact that most of the major industries quickly developed their foreign connections, which made it possible for them to rationalize the exercise of the economic power which they did exercise, on the ground that the British economy would fall if they did not maintain their foreign investments and controls.

Mr. DOUGLAS. Is it not also true that while we have gone much further along the monopoly road than we should have gone, nevertheless the fact that we had on the books the Sherman Act, the Federal Trade Commission Act, the Clayton Act, and the Robinson-Patman Act, enabled the Department of Justice to enforce a greater degree of competition than would otherwise have prevailed, and hence has contributed to the stability of our country?

Mr. MORSE. I believe that to be true.

Mr. DOUGLAS. Does not the Senator believe that the bill now before us, by weakening the power against monopoly, would turn back the movement of progress, and would still further increase monopolies and cartels in this country?

Mr. MORSE. It is because I believe that to be true that I am participating in the opposition to the attempt to send this bill to conference without the Carroll amendments in it. I wish we could greatly strengthen the bill, as the Senator from Illinois has already brought out, so that it would be a more effective instrument for checking monopolistic tendencies.

Mr. DOUGLAS. I take it that the Senator from Oregon also feels that it would be better to have no bill than even to have this bill with the Carroll amendments, for the Carroll amendments do not undo all the damage done by sections 1 and 2.

Mr. MORSE. I believe that to be so. If there were a legislative way of doing it, I certainly would vote for a complete rewriting of the bill, so that it would be more completely a monopoly-control bill.

Mr. CAPEHART. Mr. President, will the Senator from Oregon yield?

Mr. MORSE. I yield to the Senator from Indiana.

Mr. CAPEHART. Does the able Senator feel that the monopolies are bigger today than they were 25 years ago?

Mr. MORSE. I think I have heard the Senator from Indiana within the year

express the thought in some speech, I believe on the floor of the Senate, that one of the great dangers to our economy was the great growth of monopolies.

Mr. CAPEHART. Does the Senator agree with me that there are more of them today than there were 25 years ago?

Mr. MORSE. I think the war was very productive of them.

Mr. CAPEHART. Does the Senator agree they are trying to get bigger?

Mr. MORSE. That is what I have been trying to point out for several minutes.

Mr. CAPEHART. Does the Senator agree with me that the Democratic administration, which is doing so much talking about monopolies at every opportunity afforded, has been in complete control of this Government for 16 years?

Mr. MORSE. I not only agree with the Senator, but I am sure he will be very happy to make the statement for the RECORD that he is in agreement with the Senator from Oregon, who for some time has been urging the Republicans in the Senate to make monopoly control a matter of Republican policy, to take it to the people of the country and try to get the people to see the importance of breaking down the great monopolies of America.

Mr. CAPEHART. The great monopolies and cartels have grown up and thriven and become bigger and greater under the so-called liberal New Deal administration during the past 16 or 18 years, have they not?

Mr. MORSE. I always find it a matter of great pleasure when the Senator and I agree on anything, and I find myself in agreement with the Senator on this point, and I think we will get somewhere in developing a meaningful Republican platform and program, rather than the concoction of platitudes which has so often characterized the platform of the party, if we can march forward along the line of an effective monopoly-control plan.

Mr. CAPEHART. In other words, all we have had for 16 years has been talk and no action.

Mr. MORSE. I think we have had an ineffective monopoly-control program under the Democratic administration.

Mr. CAPEHART. Does the Senator agree with me that the laws are sufficient at the moment to stop all of what the able Senator from Illinois was objecting to a moment ago?

Mr. MORSE. I believe we can improve the present laws, and a pledge to that effect should be another plank in the Republican program. I think we should make that a part of our policy. We should make a very careful study of the laws as they are on the books, of the weaknesses of the laws, and the difficulties any enforcement department confronts, patch up those weaknesses, and then say to the small-business men of America, "We make the pledge to you that if you will give us the support we need to take over the administration of the Government, we will not merely talk about monopolistic control, but will do something about it."

Mr. CAPEHART. In other words, the members of the present administration who talk most against monopoly, have done nothing to bring about control of monopoly. Under the present administration, in fact, monopoly has grown bigger and stronger, and the people should be ready to turn the administration over to those who would do something about controlling monopoly, and not simply talk about controlling monopoly.

Mr. MORSE. I have not heard any admission to the effect that the people are ready to turn control over to others, but the Senator from Indiana knows that it was 4 years ago that I introduced my antimonopoly bill. I reintroduced it in the next session of Congress, and then in the next, and again this year. I may say to the Senator from Indiana I did not even secure hearings on my bill during the Eightieth Congress, when my party was in control. I think it was a great mistake not to bring my antimonopoly control bill to hearings. I know that the Senator from Indiana was in favor of having it brought to hearings. His record is clear on that point.

Mr. CAPEHART. In my opinion, it was unfortunate that the Senator from Oregon did not get the support of the Republican Party, and it is unfortunate that he does not get the support of the Democratic Party now to bring up his monopoly-control bill, because monopolies are becoming greater and stronger under the present administration.

Mr. MORSE. I will put it in this way: I think it is unfortunate that the people of America do not get the support they need from the Congress.

Mr. CAPEHART. Possibly that is the better way to put it. But I am certain that the able Senator from Oregon would agree with me that monopolies have become stronger and worse than they have been before; that they have thrived under the present administration at the same time that those who profess to be opposed to monopolies and hold up their hands in holy horror when they speak of them do nothing to bring them under control.

Mr. MORSE. There can be no doubt about that. I am going to be campaigning next year, and I think the Senator from Indiana is, too. I am going to have a specific record based upon proposals I have made for monopoly control. One of the reasons I am so satisfied to make this speech this afternoon against monopoly and in favor of monopoly control, I may say to the Senator from Wyoming [Mr. O'MAHONEY], is because I think it very important that the people of my State, who will have to make a choice next year between a Republican and a Democrat to send to the United States Senate, should know exactly where I stand on this matter.

Mr. CAPEHART. Mr. President, will the Senator yield?

Mr. MORSE. I yield.

Mr. CAPEHART. I disagree, of course, with the able Senator from Oregon as to the bill before us.

Mr. MORSE. I hate to hear the Senator say he disagrees with me about anything, when we have been in such complete agreement on the matter we are discussing.

Mr. CAPEHART. I disagree with the Senator from Oregon in that I believe the bill we are considering will do more to eliminate monopolies than the present law can do. I think the bill we are considering will help the small-business man rather than the big one. I am sincere and honest in my conviction about that. My conviction is based upon a complete study of the subject. I have sat for weeks and weeks listening to testimony on this subject. We are all entitled to our individual opinions on the subject. The Senator from Oregon and I are trying to do the same thing, that is to break up monopolies and to have competition and unhampered trade.

Mr. MORSE. I think the bill would be better with the Carroll amendments in it than without them.

Mr. CAPEHART. As the able Senator from Wyoming knows, at the time the Kefauver amendments were proposed I had no objections to them. Personally I think the Senate ought to be given an opportunity to vote on the amendments.

Mr. MORSE. I imagine the Senator would not object to my suggestion that we vote on them and on the bill, and that as a matter of senatorial courtesy the objection to the motion to reconsider be withdrawn.

Mr. CAPEHART. I have no objection to that procedure at all. But the Senate has decided on a different procedure.

Mr. MORSE. It could change its attitude.

Mr. CAPEHART. I hope we can secure a vote on this matter.

Mr. DOUGLAS. Mr. President, has the Senator from Indiana concluded his questions?

Mr. CAPEHART. Yes.

Mr. DOUGLAS. Mr. President, will the Senator yield to me for a question?

Mr. MORSE. I yield to the Senator for a question.

Mr. DOUGLAS. The Senator from Oregon is a fair-minded man, and I take it that while he recognizes that monopoly has increased in the past 15 years, he probably also feels that monopoly would have increased still more if we had had the same type of administration which we had in this country from 1921 to 1933.

Mr. MORSE. That is a matter of conjecture. I do not think we could possibly have such an administration for so long.

Mr. CAPEHART. Let me interrupt to say that the fact is that the other party has had control of the administration since 1933, and that monopolies have grown stronger since that time.

Mr. DOUGLAS. But monopolies grew much more rapidly during the period of the twenties. Is that not true?

Mr. MORSE. They grew very rapidly in the twenties, but they are certainly on the increase now.

Mr. DOUGLAS. Does the Senator from Oregon feel that the way to check them is to pass Senate bill 1008?

Mr. MORSE. That will not check them as much as the passage of my antimonopoly bill would, but in all modesty I must confess that I do not have much chance of having my bill passed.

Mr. DOUGLAS. Does the Senator from Oregon feel that Senate bill 1008 will check monopolies at all?

Mr. MORSE. I think it would have a deterring effect. Passage of the bill would puzzle the monopolists for a while.

Mr. DOUGLAS. It would result in puzzling the courts also, and puzzling the attorneys, and lead to interminable lawsuits. The Senator disappoints me by his answer, I may say.

Mr. MORSE. I am always sorry when I disappoint the Senator from Illinois. But when the Senator says it will puzzle and confuse the courts and the attorneys for a while, the Senator proceeds to show how right I am in my statement. Passage of the bill would slow up the monopolists a little bit, since they would not be sure what their legal rights were.

Mr. DOUGLAS. The argument in favor of the bill is that it will, allegedly, clarify the situation. I am glad the Senator from Oregon is in agreement with me on this point at least, that so far from clarifying, it would make the situation more confusing.

Mr. MORSE. If I were in the practice of law and permitted myself to be motivated by selfish rather than public interests, I could see a very lucrative practice growing out of the passage of the bill and its enactment into law.

Mr. DOUGLAS. In the Senator's opinion it will take a great many years before the lawbooks can be clarified on this subject; will it not?

Mr. MORSE. Oh, I think so.

Mr. DOUGLAS. In the meantime, as the result of lack of clarification, it will be possible for firms to indulge in basing-point practices and add freights and arrive at identical delivered prices without the Government being able to make effective prosecution for such practices.

Mr. MORSE. I think clients are always willing to follow the advice of their lawyers in such matters.

Mr. DOUGLAS. The effect will be very bad.

Mr. MORSE. I have already said to the Senator from Illinois that I think we should write a better bill than this.

Mr. DOUGLAS. I take it the Senator from Oregon feels that no bill would be better than the bill we are now considering?

Mr. MORSE. I will vote for the defeat of the bill. I think that is my answer. But I recognize that a bill is going to be passed, and therefore I am going to do the very best I can to patch it up.

Mr. DOUGLAS. The Senator from Oregon has never been afraid to stand with the Lord, even when the followers of the Lord were a small minority.

Mr. MORSE. I have never claimed the Lord was on my side. I always pray that the Lord will be on my side. However, I do not assert that He is on my side.

Mr. WHERRY. Mr. President, will the Senator permit me to interrupt him?

Mr. MORSE. I yield to the Senator from Nebraska.

Mr. WHERRY. May I ask the distinguished Senator from Oregon how much longer he will speak?

Mr. MORSE. I should have concluded long before this had I not been interrupted by so many questions. I am always happy to be interrupted, however. I can finish in about 15 minutes. I have been examined at some length, and my point of view has been brought out. I would aprpeciate it if at this time I may proceed and not yield further until I complete my remarks. I should like to complete them tonight.

Mr. WHERRY. I wish the Senator would permit the majority leader to make a unanimous consent request respecting the time for voting tomorrow.

Mr. MORSE. Will the Senator permit me to finish my speech tonight?

Mr. WHERRY. Oh yes, certainly.

Mr. MORSE. Does the Senator from Nebraska desire that I accommodate the Senator from Illinois [Mr. LUCAS] at this time?

Mr. WHERRY. Yes; so that he may present a unanimous consent request respecting the time tomorrow when we might vote.

Mr. MORSE. I shall be very happy to do that. I yield to the Senator from Illinois. I assume that the Senator from Illinois wishes to have me yield to him.

The PRESIDING OFFICER (Mr. DOUGLAS in the chair). The Senator from Oregon yields to the Senator from Illinois for the purpose of allowing him to present a unanimous consent request.

(At this point Mr. MORSE yielded to Mr. LUCAS for the purpose of presenting a unanimous consent request. Debate ensued, which, on request of Mr. WHERRY and by unanimous consent, was ordered to be printed at the conclusion or Mr. MORSE's speech.)

Mr. MORSE. Mr. President, in view of the many interruptions I have already had in this speech, to which I have been very pleased to accommodate myself, but which, nevertheless, have turned a 30-minute speech into a speech of at least an hour and a half, I now announce that for the remainder of my speech I shall not yield for questions, because I think I can finish in a very few minutes if I am permitted to complete the discussion.

Mr. President, before the colloquy I had with the Senator from Illinois [Mr. DOUGLAS] and before the colloquy I had with the Senator from Indiana [Mr. CAPEHART] I had been discussing tables 3 and 4, which I had previously received consent to have printed in the RECORD as a part of my remarks.

I read further from the document presented some weeks ago by the Senator from New Hampshire [Mr. TOBEY]:

The following facts respecting the effects of systematic observance of basing-point pricing are revealed by a comparison of these two sets of bids, as shown in tables 3 and 4.

1. The destination price named by all bidders in each submittal was identical, but the price uniformly quoted in the second submittal was 14 cents less than the first. This, of course, raises the question as to how 11 bidders all came to submit bids in February which were exactly 14 cents per barrel less than those the same 11 bidders submitted in January.

2. The shipping plants were located at distances varying from 31 miles to 291 miles from the destination.

3. The published freight rates from the different mills to the destination ranged from $0.30008 to $0.63 per barrel.

In order to bring about identical prices on the second bid 14 cents lower than on the first, all that each of the 11 February bidders had to know was that the controlling base mill had reduced its price 14 cents per barrel. With this fact known, systematic observance of the basing-point system under which all other pricing factors were fixed and known automatically produced the 11 identical bids.

Individual instances of identical bids: Individual instances of identical bids in cement could be cited almost indefinitely. Since, as was illustrated above, the throwing out of the bids and the advertising for new bids merely results in the resubmission of bids which are again identical, the purchaser has little alternative but to make the award by lot. Mere chance or luck is thus substituted for the culmination of all the varying economic factors represented by price in the making of economic decisions. Specifically, under a well-developed and smoothly working basing-point system, differences in distance of supplier from destination, cost of production and distribution, etc., are all automatically and systematically eliminated. Some impression of the widespread success of the basing-point system in achieving this result can be gained from the following typical examples of identical bidding.

Table 5 covers an abstract of bids for large quantities of cement for delivery at four destinations for the Tennessee Valley Authority in 1934. Twelve individual bidders with plants as far away as Cape Girardeau, Mo., and Clinchfield, Ga., as well as others in nearby Tennessee, northern Georgia, and Alabama, all submitted bids which were absolutely identical to the fourth decimal place for each destination.

TABLE 5.—*Abstract of bids for deliveries to Tennessee Valley Authority as follows on bids opened Oct. 15, 1934: 200,000 to 800,000 barrels or partial quantity at Coal Creek, Tenn.; 100,000 to 700,000 barrels or partial quantity at Wheeler Dam, Tenn.; 100,000 to 700,000 barrels or partial quantity at Sheffield, Ala.*

Bidders	Plants nearest to destination	Coal Creek, Tenn.	Wheeler contractor	Wheeler Authority	Sheffield, Ala.
1. Alpha Portland Cement Co	Phoenixville, Ala	----------	$1.8798	$1.8398	$1.7008
2. Universal Atlas Cement Co	Leeds, Ala	----------	1.8798	1.8398	1.7008
3. Marquette Cement Manufacturing Co	Cape Girardeau, Mo	----------	1.8798	1.8398	1.7008
4. Lehigh Portland Cement Co	Birmingham, Ala	----------	1.8798	1.8398	1.7008
5. Hermitage Portland Cement Co	Nashville, Tenn	$1.7384	1.8798	1.8398	1.7008
6. Cumberland Portland Cement Co	Cowan, Tenn	1.7384	1.8798	1.8398	1.7008
7. Signal Mountain Portland Cement Co	Chattanooga, Tenn	1.7384	1.8798	1.8398	1.7008
8. Lone Star Cement Co	Birmingham, Ala	----------	1.8798	1.8398	1.7008
9. National Cement Co	Ragland, Ala	----------	1.8798	1.8398	1.7008
10. Georgia Cement & Products Co	Portland, Ga	----------	1.8798	1.8398	1.7008
11. Penn.-Dixie Cement Corp	Kingsport, Tenn / Richard City, Tenn	1.7384	1.8798	1.8398	1.7008
12. Volunteer Portland Cement Co	Caswell, Tenn	1.7384	----------	----------	----------

All bids subject to 10 cents per barrel discount for payment in 15 days. Some bidders limited their offers to partial quantities.

Table 6 covers a large quantity of cement in bulk and a smaller quantity sacked in paper, delivered to the War Department for the Fort Peck (Mont.) Dam in 1935.

Mr. President, that incident is comparable to the incident involving steel, to which the Senator from Illinois [Mr. DOUGLAS] referred previously in his remarks. I was not familiar with the steel incident, but I was familiar with the cement incident.

I read further from the document:

Three producers submitted bids, all of which were identical to the fourth decimal place.

TABLE 6.—*Abstract of bids for 600,000 barrels of cement in bulk and 10,000 barrels of cement in paper for Fort Peck Dam in 1935*

Name of bidder	Plant's nearest destination	Bulk, per barrel	Paper, per barrel
Universal-Atlas Portland Cement Co.	Duluth, Minn.	$2.5056	$2.7145
Huron Portland Cement Co.	Alpena, Mich.	2.5054	2.7145
Three Forks Portland Cement Co.	Trident, Mont.	2.5054	2.7145

Table 7 covers an abstract of bids for a smaller order of cement for Leavenworth Penitentiary, on which bids submitted in September 1935 by seven of eight bidders all were identical to the sixth decimal place.

TABLE 7.—*Abstract of bids for 1,000 barrels of cement for Leavenworth Penitentiary, opened Sept. 3, 1937*

Name of bidder:	Price per barrel
Universal	$2,163424
Ash Grove	2.163424
Missouri	2.163424
Lone Star	2.163424
Lehigh	2.163424
Monarch	2.163424
Dewey	2.163424
Consolidated	2.175280

All bids subject to 10 cents discount per barrel for payment in 15 days.

In this instance, the only exceptions from sixth decimal place identity in the price per barrel was the bid of Consolidated Cement Corp. with a plant at Fredonia, Kans. Its bid, for some reason, was 0.5856 of a cent per barrel higher than the price uniformly bid by the other seven bidders. The discount terms offered by all bidders also were identical.

Table 8 covers an abstract of bids for cement for the United States Engineer Office, Tucumcari, N. Mex., for which bids by 11 bidders, opened in April 1936, were all identical to the sixth decimal place.

TABLE 8.—*Abstract of bids for 6,000 barrels of cement for United States Engineer Office, Tucumcari, N. Mex., opened Apr. 23, 1936*

Name of bidder:	Price per barrel
Monarch	$3.286854
Ash Grove	3.286854
Lehigh	3.286854
Southwestern	3.286854
Oklahoma	3.286854
U. S. Portland Cement Co.	3.286854
Consolidated	3.286854
Trinity	3.286854
Lone Star	3.286854
Universal	3.286854
Colorado	3.286854

All bids subject to 10 cents per barrel discount for payment in 15 days.

Mr. President, I could go on at length in commenting on the other tables which show identical bids, as contained in the material which the Senator from New Hampshire [Mr. TOBEY] called to the attention of the Senate some weeks ago. However, I think I have illustrated the major point I wished to illustrate in this part of my speech.

I summarize it by saying that it is simply remarkable, Mr. President, simply a fascinating coincidence, that in the cement industry those who operate the individual segments of that industry on a plant-by-plant basis can reach the same conclusion as to the amount of their bids, when the Government calls upon them to bid. I do not believe in mental telepathy; but, Mr. President, I refer those who do believe in it to the remarkable phenomenon which has characterized the bidding in the cement industry.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. MORSE. No; I do not yield. I have already announced that I will not yield further in my remarks tonight.

Mr. LONG. Mr. President, if the Senator from Oregon will yield for a further question, I promise not to ask him to yield for any more questions.

Mr. MORSE. Mr. President, the Senator from Louisiana is so appealing that I do yield at this time; for a question.

Mr. LONG. The question has been raised so many times in the debate that I should like to ask the Senator from Oregon, for the record, if he has any knowledge, and if he is under the impression, that it is the giant corporations of the United States, the giant monopolistic firms, that are forcing this proposed legislation through the Congress posthaste, to the best of their ability. Since that issue has been raised, I would quote, in support of that argument, from a statement made in the Eightieth Congress by the Select Committee on Small Business, which at that time was composed of a majority of Republican members. This statement appears on page 23 of the report of that group on the problems of small business resulting from monopolistic and unfair trade practices:

Mr. McIntyre furnished the committee with evidence from official sources showing that heads of large companies supplying materials in short supply had written their customers letters, requesting them to bring pressure upon Congress to legalize basing-point systems. The heads of such large companies, it was pointed out, were affected by the Supreme Court's ruling, since they had used basing-point systems in their business up to the decision of the Supreme Court.

I point out that Mr. McIntyre's evidence contained letters written by Jones & Laughlin to every stockholder, asking them to put pressure on Congress to have Congress pass this law, and also letters to the same effect from the Weir Steel Co.; and the result was that many of those people came before the congressional committees to support this proposed legislation, although there is no note to show that Jones & Laughlin or the Weir Steel Co. wrote letters asking them to do so and no note to show that those companies wrote letters asking that this proposed legislation be enacted by the Congress.

Mr. MORSE. Mr. President, I thank the Senator from Louisiana for the comment he has made. He will recall that some weeks ago, in a speech I made on the floor of the Senate, I sought to bring out in great detail the major premise he has just laid down in his remarks.

It will be recalled that in that speech, which might be entitled a speech giving the history of such propaganda by big business, I traced some of the bulletins of the steel industry in connection with what I think is perfectly clear, namely, the long-time, concerted drive to fasten with a firmer grip monopolistic control upon the throats of American small business.

Let me say to the Senator from Louisiana—I have not had an opportunity to say this to him privately, but I prefer to say it to him publicly—that I think not only the people of Louisiana but all the people of the United States owe him a great debt of gratitude for the gallant fight he has made on the floor of the Senate with regard to this issue.

I think the speech the Senator made yesterday on the floor of the Senate was one of the strongest defenses of the rights of the small-business men of America, in the retention of the free-enterprise system, I have heard since it has been my privilege to serve in the Senate of the United States. Even though the Senator from Louisiana belongs to a political party different from my own, I am always going to support the right side of an issue as I see the right, irrespective of the partisan support it may be receiving. We are dealing here with an issue which, after all, is nonpartisan, and as I said to my good friend, the Senator from Indiana [Mr. CAPEHART], a few moments ago, I am delighted to find myself in complete agreement with him that we ought to make this issue of monopolistic control one of the great policy issues of the Republican Party. I may say to the Senator from Louisiana I welcome the type of battle he put up yesterday for greater control of monopolies and greater protection of the small-business men of America.

Mr. LONG. I thank the Senator. I point out that this certainly is not a partisan issue, because both parties, Democratic and Republican, have pledged themselves against this kind of law.

Mr. MORSE. That is true.

Mr. BREWSTER. Mr. President, will the Senator yield?

Mr. MORSE. I yield.

Mr. BREWSTER. Will the Senator from Oregon inform us whether he considers that he or his comrades of the last 2 days come under the President's current indictment of the Senate as filibustering?

Mr. MORSE. I have not read the indictment.

Mr. BREWSTER. It was released this afternoon.

Mr. MORSE. I have not heard of it until now.

Mr. BREWSTER. I think the Senator should examine the RECORD of the past 2 days and acquit most of the Republicans at least of any responsibility for delay.

Mr. MORSE. I have not heard the indictment, I may say to my good friend

from Maine, but of this I am certain, the Senator from Maine will look in vain through the CONGRESSIONAL RECORD to find an instance of speeches discussing any issue having been more to the point than have the speeches made during the past 2 days on this issue.

Mr. BREWSTER. I could testify to that from my own participation. I think it is unfortunate the President should raise such a question at this particular time when we have had so interesting a discussion of a matter which is certainly of very great importance.

Mr. MORSE. If the President has made comment to the effect that the speeches in regard to the basing-point problem constitute filibustering, someone has misinformed him.

Mr. BREWSTER. It apparently was merely a shotgun blast at the general situation.

Mr. MORSE. Mr. President, I now wish to discuss very briefly the subject of the submission of identical bids following the decision in the Cement case. Again quoting:

Continuation of identical bids until Cement decision: There is ample evidence that the almost perfect operation of basing-point pricing in cement continued to produce identical noncompetitive bids up to the Supreme Court decision in the Cement case on April 26, 1948. Not only were bids characteristically uniform but the customary efforts to instill some measure of competition in bidding by refusals of bids and readvertisements continued to be ineffectual.

These conclusions are borne out in the factual material presented in the following tables dealing with a number of identical bids received by the Corps of Engineers of the War Department during the period April 1947 to March 1948.

I ask unanimous consent to have inserted at this point table 13.

There being no objection, table 13 was ordered to be printed in the RECORD, as follows:

TABLE 13.—*Abstract of bids, for 2,000 barrels American portland cement received by Corps of Engineers, War Department, Vicksburg, Miss., advertised Mar. 26, 1947, and bids opened Apr. 9, 1947, serial No. 22-052-47-209, for flood control, Mississippi River and tributaries, destination Vicksburg, Miss.*

Bid number and bidder[1]	Price per barrel f. o. b. destination		Discount per barrel (15 days)
	Item 1	Item 1 (a)	
No. 1. Hermitage Portland Cement Co	$2.83	$2.85	$0.10
No. 2. Universal Atlas Cement Co	2.83	2.85	.10
No. 3. Alpha Portland Cement Co	2.98	3.00	.10
No. 4. Lehigh Portland Cement Co	2.83	2.85	.10
No. 5. Lone Star Cement Corp.	2.83	2.85	.10
No. 6. Marquette Cement Manufacturing Co	2.83	(2)	.10

[1] Awarded by lot to bidder No. 4 as between bidders 2 and 4, because these were lowest bids considering guaranty against increase for 15 days.
[2] No bid.

Mr. MORSE. I also ask unanimous consent to have inserted at this point, without taking the time to read it, the information set forth on page 24 of the Tobey material, including the insertion of table 14.

There being no objection, page 24 and table 14 were ordered to be printed in the RECORD, as follows:

The first of these tables (table 13) relates to a relatively small quantity of cement advertised on March 26, 1947, to be used for flood-control purposes. In this table, item 1 is the price for cement delivered on Government bills of lading at land-grant railroad rates and item 1 (a) is the usual basing-point destination price using the rate tables of the basing-point formula.

In this instance all four of the five bids received for item 1 were identical both as to amount and discount, and three of the four bids for item 1 (a) likewise were identical.

Table 14 summarizes a case in 1947 in which the Corps of Engineers, having received what it regarded as unsatisfactory bids on a first call, advertised for new bids with no better result in obtaining really competitive bids. The bids were for four lots of cement. On the first call there were only four bidders altogether, of whom only one bid on lot A; four bids on lot B; two bids on lot C; and two bids on lot D. The second call produced two additional bidders. Again, the only deviations from identical bidding were a few quotations which were higher than the formula price.

TABLE 14.—*Abstract of bids for 4 lots of American portland cement received by Corps of Engineers, War Department, Huntington, W. Va., for Bluestone Reservoir project, New River, W. Va., in 1947*

(Serial No. W-46-022-Eng.-47-136: First call issued May 1, 1947; opened May 12, 1947. Second call issued May 23, 1947; opened June 3, 1947)

Company	Item 1			Item 2 (a)		
	Price per barrel f. o. b. destination		Discount per barrel (15 days)	Price per barrel f. o. b. destination		Discount per barrel (15 days)
	First call	Second call		First call	Second call	
Lot A, 267,000 barrels:						
1. Universal-Atlas Cement Co	$2.58	$2.58	$0.10	$2.60	$2.60	$0.10
Lot B, 162,000 barrels:						
1. Universal-Atlas Cement Co	2.58	2.58	.10	2.60	2.60	.10
2. Lehigh Portland Cement Co	2.58	2.58	.10	2.60	2.60	.10
3. Medusa Portland Cement Co	2.58	2.58	.10	2.60	2.60	.10
4. North American Cement Corp	[1] 2.73	[1] 2.58	.10	[1] 2.75	2.60	.10
Lot C, 75,000 barrels:						
1. Universal-Atlas Cement Co	2.58	2.58	.10	2.60	2.60	.10
2. Medusa Portland Cement Co	2.58	2.58	.10	2.60	2.58	.10
3. Huron Portland Cement Co	(2)	2.58	.10	(2)	2.60	.10
4. Bessemer Limestone & Cement Co	(2)	2.85	.10	(2)	2.75	.10
Lot D, 30,000 barrels:						
1. Universal-Atlas Cement Co	2.58	2.58	.10	2.60	2.60	.10
2. Medusa Portland Cement Co	2.58	2.58	.10	2.60	2.60	.10
3. Huron Portland Cement Co	(2)	2.58	.10	(2)	2.60	.10
4. Bessemer Limestone & Cement Co	(2)	2.85	.10	(2)	2.75	.10

[1] Bid on only 87,000 barrels.
[2] No bid.

Mr. MORSE. Mr. President, I could proceed to cite additional evidence of the continuation of what in fact has amounted to identical-bid practices following the so-called Cement decision, but I shall not take the time of the Senate nor the space in the RECORD to present such material, because not only in this speech but in other speeches I think there has been clearly established the proof necessary to support the conclusion that there is an identity of bidding in this great industry in regard to which the Cement decision was directed. Therefore, I ask unanimous consent to have inserted at this point in my remarks the material contained on pages 32 and 33 of the Tobey document.

There being no objection, the matter was ordered to be printed in the RECORD, as follows:

Identity of bids disappears after the Cement decision: In order to determine whether the abandonment of the basing-point system following the Supreme Court decision in April 1948 resulted in any changes in the customary pattern of identical bids which had prevailed in the cement industry for over 40 years, information was received from the highway departments of several representative States.

Abstracts of bids furnished by the Virginia Department of Highways are especially informative in that they present directly comparable data covering destination prices at a large number of delivery points in the State for the last contract period preceding abandonment, and for the first contract period immediately thereafter. The complete data for the two periods, in the form of two large tables, appeared in the daily issue of the CONGRESSIONAL RECORD Appendix pages A2416 and A2417.

The two outstanding facts to be noted from the complete tables as they appear in the RECORD are:

1. In June 1947 under the basing-point system, seven cement manufacturers submitted a total of 543 bids for delivery at 134 destinations in 82 counties. Of these 543 bids, there were only 3 deviations from the customary pattern of absolutely identical bids or a showing of 99.45 percent identity of price. Moreover, the three bids which were not identical were all submitted by one company and in each case they were higher than the basing-point formula prices.

2. Nine months later in September 1948, or about 2 months after the abandonment of basing-point pricing, 3 of these 7 producers submitted a total of 381 bids for delivery within the same 82 counties. In sharp contrast to the previous pattern these new bids showed great diversity of prices as between the different companies when bidding for delivery at the same destinations. In fact there were only five destinations at which any two of the bidders quoted the same prices.

Without presenting the great body of data contained in the two tables as they appear in the RECORD the general nature of the showing is presented in table 21 below which summarizes the bids of the 3 companies for delivery at the same destinations in 18 counties, or about one-fourth of all of the counties covered by bids on each of the dates.

Mr. MORSE. Mr. President, I wish also to have inserted in the RECORD at this point several tables affording examples of identical bids on calcium chloride to the North Carolina Division of Purchase and Contract, during the 7-year

period, May 1, 1941, through October 14, 1948. I received this material from the Select Committee on Small Business of the House of Representatives, and I should like to have the material returned to my office so it can be returned to the official files of that committee, after it has been copied by the reporters.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

Tabulation of bids on calcium chloride, dated May 1, 1941, desination freight paid, Littleton, N. C.

Bidder	Unit price, ton	Terms	Manufacturer
		Per-cent	
North Carolina Equipment Co., Raleigh, N. C.	$23.00	1	Dow.
Tidewater Supply Co., Asheville, N. C.	23.00	1	Pittsburgh.
Dillon Supply Co., Raleigh, N. C.	23.00	1	Solvay.
E. F. Craven Co., Greensboro, N. C.	23.00	1	Do.
Chemical Processing Co., Charlotte, N. C.	23.00	1	Do.
Virginia-Carolina Chemical Corp., Richmond, Va.	23.00	1	Do.
Pittsburgh Plate Glass Co., Charlotte, N. C.	23.00	1	Pittsburgh.
Solvay Sales Corp., Charlotte, N. C.	23.00	1	Solvay.
Taylor Salt & Chemical Co., High Point, N. C.	23.00	1	Michigan.
E. I. du Pont de Nemours & Co., Charlotte, N. C.	23.00	1	Dow.
American Cyanamid & Chemical Corp., Charlotte, N. C.	23.00	1	Do.
The Dow Chemical Co., Midland, Mich.	23.00	1	Do.
Atlas Supply Co., Winston-Salem, N. C.	23.00	1	Solvay.
George Marsh Co., Raleigh, N. C.	23.00	1	Michigan.
Carolina Tractor & Equipment Co., Raleigh, N. C.	23.00	1	Solvay.
Pittsburgh Plate Glass Co., High Point, N. C.	23.50	2	Pittsburgh.

Tabulation on bids on calcium chloride, dated May 1, 1941, destination freight paid Warrenton, N. C.

Bidder	Unit price, ton	Terms	Manufacturer
		Per-cent	
North Carolina Equipment Co., Raleigh, N. C.	$23.00	1	Dow.
E. F. Craven Co., Greensboro, N. C.	23.00	1	Solvay.
George Marsh Co., Raleigh, N. C.	23.00	1	Michigan.
Atlas Supply Co., Winston-Salem, N. C.	23.00	1	Solvay.
The Dow Chemical Co., Midland, Mich.	23.00	1	Dow.
American Cyanamid & Chemical Corp., Charlotte, N. C.	23.00	1	Do.
E. I. du Pont de Nemours & Co., Charlotte, N. C.	23.00	1	Do.
Taylor Salt & Chemical Co., High Point, N. C.	23.00	1	Michigan.
Solvay Sales Corp., Charlotte, N. C.	23.00	1	Solvay.
Pittsburgh Plate Glass Co., Charlotte, N. C.	23.00	1	Pittsburgh.
Chemical Processing Co., Charlotte, N. C.	23.00	1	Solvay.
Carolina Tractor & Equipment Co., Raleigh, N. C.	23.00	1	Do.
Dillon Supply Co., Raleigh, N. C.	23.00	1	Do.
Pittsburgh Plate Glass Co., High Point, N. C.	23.50	2	Pittsburgh.

Tabulation of bids on calcium chloride, dated Sept. 18, 1941, destination freight paid Henderson, N. C.

Bidder	Unit price, ton	Terms	Manufacturer
		Per-cent	
Virginia-Carolina Chemical Corp., Richmond, Va.	$23.00	1	Solvay.
Solvay Sales Corp., Charlotte, N. C.	23.00	1	Do.
Chemical Processing Co., Charlotte, N. C.	23.00	1	Do.
The Dow Chemical Co., Midland, Mich.	23.00	1	Dow.
E. I. du Pont de Nemours & Co., Charlotte, N. C.	23.00	1	Do.
E. F. Craven Co., Greensboro, N. C.	23.00	1	Solvay.
American Cyanamid & Chemical Corp., Charlotte, N. C.	23.00	1	?
F. H. Ross & Co., Charlotte, N. C.	23.00	1	Solvay.
N. C. Equipment Co., Raleigh, N. C.	23.00	1	Dow.
Pittsburgh Plate Glass Co., Charlotte, N. C.	23.00	1	Pittsburgh.
Dillon Supply Co., Raleigh, N. C.	23.00	1	Solvay.
Michigan Alkali Co., New York, N. Y.	23.00	1	Michigan.

Tabulation of bids on calcium chloride, dated Oct. 30, 1941, destination freight paid any railroad station in North Carolina

Bidder	Unit price, ton	Terms	Manufacturer
		Per-cent	
Brame Specialty Co., Durham, N. C.	$23.00	1	Solvay.
Carolina Tractor & Equipment Co., Raleigh, N. C.	23.00	1	Do.
North Carolina Equipment Co., Raleigh, N. C.	23.00	1	Dow.
Pittsburgh Plate Glass Co., Charlotte, N. C.	23.00	1	Pittsburgh.
E. I. du Pont de Nemours & Co., Charlotte, N. C.	23.00	1	Dow.
Atlas Supply Co., Winston-Salem, N. C.	23.00	1	Solvay.
Solvay Sales Co., Charlotte, N. C.	23.00	1	Do.
Dillon Supply Co., Raleigh, N. C.	23.00	1	Do.
The Dow Chemical Co., Midland, Mich.	23.00	1	Dow.

Tabulation of bids on calcium chloride, bid No. 2590, Oct. 22, 1942, destination freight paid any railroad station in North Carolina

Bidder	Unit price, ton	Terms	Manufacturer
		Per-cent	
Solvay Sales Corp., Charlotte, N. C.	$23.00	1	Solvay.
Dillon Supply Co., Raleigh, N. C.	23.00	1	Do.
Virginia-Carolina Chemical Corp., Richmond, Va.	23.00	1	Do.
Atlas Supply Co., Winston-Salem, N. C.	23.00	1	Do.
Pittsburgh Plate Glass Co., Charlotte, N. C.	23.00	1	Pittsburgh.
Pittsburgh Plate Glass Co., High Point, N. C.	23.00	1	Do.
North Carolina Equipment Co., Raleigh, N. C.	23.00	1	Dow.
Taylor Salt & Chemical Co., High Point, N. C.	23.00	1	Do.
E. I. du Pont de Nemours & Co., Charlotte, N. C.	23.00	1	Do.
Howerton-Gowen Co., Roanoke Rapids, N. C.	23.00	1	Do.

Tabulation of bids on calcium chloride, bid No. 3097, Oct. 28, 1943, destination freight paid any railroad station in North Carolina

Bidder	Unit price, ton	Terms	Manufacturer
		Per-cent	
E. F. Craven Co., Greensboro, N. C.	$23.00	1	Solvay.
The Dow Chemical Co., Midland, Mich.	23.00	1	Dow.
Pittsburgh Plate Glass Co., Charlotte, N. C.	23.00	1	Pittsburgh.
Howerton-Gowen Co., Roanoke Rapids, N. C.			Dow.
North Carolina Equipment Co., Raleigh, N. C.	23.00	1	Do.
E. I. du Pont de Nemours Co., Charlotte, N. C.	23.00	1	Do.

Tabulation of bids on calcium chloride, bid No. 3657, Oct. 5, 1944, destination freight paid any railroad station in North Carolina

Bidder	Unit price ton	Terms	Manufacturer
		Per-cent	
Howerton-Gowen Co., Roanoke Rapids, N. C.	$23.00	1	Pittsburgh.
Pittsburgh Plate Glass Co., Charlotte, N. C.	23.00	1	Do.
The Dow Chemical Co., Midland, Mich.	23.00	1	Dow.
Solvay Sales Co., Charlotte, N. C.	23.00	1	Solvay.
E. I. du Pont de Nemours & Co., Charlotte, N. C.	23.00	1	Dow.
E. F. Craven Co., Greensboro, N. C.	23.00	1	Solvay.
American Cyanamid & Chemical Corp., Charlotte, N. C.	23.00	1	Do.
North Carolina Equipment Co., Raleigh, N. C.	23.00	1	Dow.
Taylor Salt & Chemical Co., High Point, N. C.	23.00	1	Do.

Tabulation of bids on calcium chloride, bid No. 4386, Oct. 11, 1945, desination freight paid any railroad station in North Carolina

Bidder	Unit price, ton	Terms	Manufacturer
		Per-cent	
Atlas Supply Co., Winston-Salem, N. C.	$23.00	1	Solvay.
E. I. du Pont de Nemours & Co., Charlotte, N. C.	23.00	1	Dow.
Howerton-Gowen Co., Roanoke Rapids, N. C.	23.00	1	Do.
North Carolina Equipment Co., Raleigh, N. C.	23.00	1	Do.
Pittsburgh Plate Glass Co., Charlotte, N. C.	23.00	1	Pittsburgh.

Tabulation of bids on calcium chloride, bid No. 5520, Oct. 3, 1946, destination freight paid any railroad station in North Carolina

Bidder	Unit price, ton	Terms	Manufacturer
		Per-cent	
Pittsburgh Plate Glass Co., Charlotte, N. C.	$23.00	1	Pittsburgh.
Howerton-Gowen Co., Roanoke Rapids, N. C.	23.00	1	Dow.

Tabulation of bids on calcium chloride, bid No. 6660, Oct. 17, 1947, desination freight paid any railroad station in North Carolina

Bidder	Unit price ton	Terms	Manufacturer
		Percent	
Pittsburgh Plate Glass Co., Charlotte, N. C.	$22	(1)	Pittsburgh.[2]
Howerton-Gowen Co., Roanoke Rapids, N. C.	22	[3] 1	Dow.[4]

[1] Net.
[2] F. o. b. Barberton, Ohio.
[3] Prior to Jan. 1, 1948. Balance net.
[4] F. o. b. factory freight equal with nearest producing point.

Tabulation of bids on calcium chloride, bid No. 7843, Oct. 14, 1948, destination freight paid any railroad station in North Carolina

Bidder	Unit price, ton	Terms	Manufacturer
Pittsburgh Plate Glass Co., Charlotte, N. C.	$22	(1)	Pittsburgh.[2]
Howerton-Gowen Co., Roanoke Rapids, N. C.	22	(1)	Wyandotte.[3]

[1] Net.
[2] F. o. b. Barberton.
[3] F. o. b. works, freight equalized with nearest producing point.

Mr. MORSE. We find in this material, Mr. President, a record of the bids on calcium chloride submitted to the North Carolina Division of Purchase and Contract, during the 7-year period. I shall hastily summarize the tables by saying that, for example, in the bids dated 1941, for a certain month, there were 16 bidders, with 15 identical bids; in another set of bids, 14 bids were submitted, 13 of which were identical; another one, for October 18, 1941, 12 bids were submitted, all identical; another one for November 1941, 9 bids were submitted, all identical; another one for October 22, 1942, 10 bids, all identical; another one, for October 28, 1943, 6 bids, all identical; one for October 5, 1944, 9 bids, all identical; one for October 11, 1945, 5 bids, all identical; one for October 3, 1946, 2 bids, both identical; one for October 17, 1947, two identical bids; one for October 14, 1948, two identical bids.

More and more such evidence could be incorporated in the RECORD, but I think it would be cumulative. I think if we were not confronted with an unusual parliamentary situation we would be in the position of the lawyer in court, who, having built up unanswerable evidence in support of his client's position, could very well say to the court, "We rest." But I want to close my comments this afternoon on the same vein I began. We are not able, it seems to me, with the parliamentary predicament in which we find ourselves, to have a vote on the merits of the Carroll amendment, and that is what the Senate ought to do. I want to say by way of sincere commendation to the Senator from Indiana [Mr. CAPEHART] I think he is to be complimented on the statement he made that he, too, thinks we ought to go to a vote on the merits. I interpreted his remarks to mean that he would not insist upon the application of the technical parliamentary advantage, under which those of us who want the motion to refer the bill to conference reconsidered find ourselves.

I think, Mr. President, that is really true of the feeling of most of the Members of the Senate, down in their hearts. So many of them committed themselves before they thoroughly understood the situation in which we find ourselves, that it is difficult, as we all know, for them to change their position. But they should change their position, Mr. President; and the leaders of the opposition should make it easy for them to change their position as a matter of Senatorial courtesy, because of the confusion and misunderstanding which existed on the floor of the Senate when the motion was made to send this bill to conference. I think I know whereof I speak when I say there are Members of the Senate who probably will vote against us on the motion to reconsideration who privately say, "We do not like the spot in which we find ourselves, and wish that the insistence on sending the bill to conference would be withdrawn so we could vote on the merits." Some of them have said, "I would not only vote on the merits, but I agree that we should have the board clear so we can decide the matter on the basis of a majority vote."

So I close my speech by making for the RECORD the statement that I hope those who are insisting upon opposing the motion to reconsider will take note of the fact that they are taking advantage of what at the time was a misunderstanding and a very confused situation on the floor of the Senate, and as a matter of Senatorial courtesy they should withdraw their objections to the motion being reconsidered and permit us to go ahead and vote on the merits.

I ask, Mr. President, unanimous consent to have inserted in the RECORD, as this point in my remarks, a telegram which I received from the office of the National Federation of Independent Business an article which appeared in the Detroit News of July 9, 1949, and a news release dated July 11, 1948, issued by my very good friend the Senator from Wyoming [Mr. O'MAHONEY] in discussing his views, concerning the desirability of abandoning the basing-point system. It is a news release on which I am sure he will want to comment in his speech tomorrow, because it leaves some of us in some doubt as to just how the distinguished Senator from Wyoming reconciles this news release with his present position on the pending legislation.

There being no objection, the matters were ordered to be printed in the RECORD, as follows:

WASHINGTON, D. C., *July 19, 1949.*

Hon. WAYNE MORSE,
Senate Office Building,
Washington, D. C.

It is our opinion now, from what we can gather in the way of reliable information that from the first instance the hidden objective in the agitation for needed legislation on the organized basing point system which was outlawed by the Supreme Court, was to do away with the Robinson-Patman Act or reduce it to a point of making the act worthless. It appears to us that the future business life of small business now rests with the Congress. The present bill, minus the Kefauver or Carroll amendments will sound the death knell for all independent businesses. We hope and trust, in the sole interest of small-independent business, that you will fight any attempt for modification in the language of either the Kefauver or Carroll amendments. The future business life of independent business is now facing a crisis, and the answer rests with the Congress as to whether or not small business lives or dies. I am sure you will not fail us in the interest of small business. Thank you for your support.

GEORGE J. BURGER,
Vice President in charge, Washington, office, National Federation of Independent Business.

[From the Detroit News of July 9, 1949]

THE COMMENTATOR

(By W. K. Kelsey)

Small business won an important, and to the Commentator an unexpected, victory in the House on Thursday when by 117 to 81 that body voted an amendment presented by Representative JOHN A. CARROLL, of Colorado, to the basing-point bill reported by the Judiciary Committee.

This amendment is designed to protect the Clayton and Robinson-Patman antimonopoly acts against language in the committee's bill which would in effect have repealed sections upheld by the Federal courts. It virtually puts back into the measure the provisions which Senator KEFAUVER insisted on when the bill was before the Senate, but which were stricken out by the House Judiciary Committee. According to Mr. KEFAUVER, the Carroll amendment is even better than his own.

But the fight isn't over. The bill now goes into conference, where anything may happen. Suppose the Senate conferees recede on the Kefauver provisions and those of the House give up on the Carroll language. The bill will then be reported to both Houses, and may be passed in that form. The big-business lobby is not likely to give up easily.

The fact is, the stage was carefully set for passage of a measure which, under the guise of straightening out the confusion caused by the Supreme Court's decisions in the Cement, Rigid Conduit, Standard Oil, and other cases, would have legalized the basing-point price system, absorbed freight, and pricing to meet a competitor's prices regardless of effect on competition, provided there was no collusion between sellers.

But attorneys for the small-business men's associations, aided by two prominent counsel of the Federal Trade Commission (which itself was fast asleep to what was cooking), pointed out the weapon which the proposed bill would give monopoly to ruin the small independent businessman. With little time to formulate their case, the associations, those of them which were alert, sprang into the battle, foremost among them being the National Congress of Petroleum Retailers, headed by Rankin Peck, of Detroit.

CARRYING THE BATTLE

In Congress, the fight was carried by Representative WRIGHT PATMAN, of Texas, chairman of the House Small Business Committee, who filled the CONGRESSIONAL RECORD with instances of discriminatory price-fixing by business combines; by Representatives KARST, of Missouri; WILLIS, of Louisiana; MCCULLOCH, of Ohio; CARROLL, of Colorado, JAVITS, of New York; by Senators KEFAUVER, of Tennessee, and EARL LONG, of Louisiana, of whom the latter was particularly busy rounding up votes on the House side.

In the House, the lawyers had a field day as they argued points of interpretation. But it may have been that the most telling blow at the Judiciary Committee's bill was dealt by a Missouri farmer, Representative GEORGE CHRISTOPHER, who shouted that he would not vote for any law that hamstrings and cuts the throat of all the antitrust laws and lets

the chain stores strangle all the little business in my State.

That was language which the Middle West could understand. The South was equally concerned, not only on the chain-store count, but because the unamended bill, by apparently giving carte blanche to the basing-point system, worked against the establishment of new industries in that section.

The Carroll amendment which was placed in the bill that was finally passed by the House consisted of a simple addition in two sections. In that which would permit freight absorption by the seller to meet the equally low price of a competitor in good faith, it added the words "except where such absorption of freight would be such that its effect upon competition may be that prohibited by this section" of the Clayton Act as amended by the Robinson-Patman Act.

That is to say, the antitrust laws now on the books are written into the new bill; and it follows that the rulings of the Supreme Court remain applicable.

But the fight isn't over yet. Despite the fact that the bill has now passed both Houses in a form protective to small independent business, there is the conference hurdle to be leaped. According to the Wall Street Journal, industry lawyers are still gunning for it.

STATEMENT BY SENATOR JOSEPH C. O'MAHONEY, OF WYOMING

The announced plan of the United States Steel Corp. to abandon the basing-point system of price fixing would be good news to the country at large, and to all who are interested in promoting competition and free enterprise, if it were not for the fact that there is evidence to indicate that the real purpose of the announcement is to bring about the repeal of the law under which the Supreme Court in the recent cement-industry case condemned the basing-point system as a method of promoting the suppression of competition.

President Fairless, of United States Steel, stated in making the announcement "that the basing-point method of selling steel is a merchandising practice not resulting from collusion but one which developed naturally to the advantage of both steel producers and consumers." He declared that the abandonment of the system was made necessary by the recent Supreme Court decision in the suit brought against members of the cement industries by the Federal Trade Commission.

I undertake to say categorically that if the basing-point method of selling steel is not a collusive practice, it is not prohibited by the law and it would not be in violation of the law as interpreted by the Supreme Court in the Cement case.

In sustaining the Federal Trade Commission's order against the basing-point system in cement, the Court said:

"It seems impossible to conceive that anyone reading these findings in their entirety could doubt that the Commission found that respondents collectively maintained a multiple basing point delivered price system for the purpose of suppressing competition in cement sales."

The abandonment of the basing-point system was one of the major recommendations of the prewar Temporary National Economic Committee of which I was chairman, and on which both Republicans and Democrats served.

There was no dissent to the recommendation that the system be outlawed. The committee stated that it was not impressed with the argument that outlawing the basing-point system will cause disturbances in the rearrangement of business through a restoration of competitive conditions in industries now employing basing-point systems. The committee went on to add that such disturbances may be costly to those who have been practicing monopoly. But the long-run gain to the public interest by a restoration of competition in many important industries is clearly more advantageous.

The committee recommended that Congress legislate against the basing-point system as an effective device for the elimination of price competition, but gave its opinion that the legislation should provide for a brief period of time for industries to divest themselves of this monopolistic practice.

United States Steel apparently desires no time to adjust itself to the law, thus giving reason to believe that its real purpose is to seek an opportunity to raise steel prices again in the present sellers market and attribute the increased cost to the decision of the Supreme Court and the activities of the Federal Trade Commission. I fear that United States Steel is merely trying to lay the basis for a demand that Congress change the antitrust law under which the Supreme Court found that a multiple basing-point delivered-price system for the purpose of suppressing competition is prohibited.

A good-faith abandonment of the collusive basing-point system in favor of the f. o. b. system would have the following specific advantages in stimulating competition and the building of local independent steel industries:

1. It would eliminate the senseless and inexcusable practice of charging "phantom freight," a practice whereby buyers of steel are charged freight from some distant point even though the steel is produced at their own back door.

2. It would eliminate the equally senseless practice of cross hauling, a practice whereby steel products produced in Birmingham, Ala., for example, are shipped to Chicago at the same time that identical products produced in Chicago are being shipped to Birmingham. In normal times this practice is bad enough, since it is uneconomic and results in a hidden subsidy to the railroads; but in periods of great economic activity, such as the present, when every transportation facility is strained to the breaking point, this useless cross hauling is simply inexcusable.

3. It would give a better chance of survival to the small steel producers since large mills will find it much more difficult to dump their products in a particular market for the purpose of putting a small competitor out of business, while at the same time charging high prices in other markets where competition has already been eliminated. For the same reason it will make it possible for new producers to come into the industry, particularly in areas of the West and Southwest where the shortage of steel is chronic.

4. As a consequence, it would mean a more rapid industrial growth in the outlying areas, a greater economic independence on the part of most regions of the country, and an increase in the Nation's steel capacity which will be sorely taxes for national defense, domestic consumers, and international recovery.

5. It would greatly weaken the ability of the large domestic steel producers to enforce on the remainder of the industry the traditional policy of price leadership under which they have been able to prevent smaller producers from reducing prices even when it is to the advantage of the smaller companies to do so.

6. Finally, it would weaken the community of interest which has bound the big steel companies together into one mighty combination of economic power, and it will open up the opportunities for legitimate price competition among these giants who have not actually competed with each other since almost the turn of the century.

As everyone knows, the steel producers, owing to the present abnormally high demand for steel, are in a position to charge "what the traffic will bear" regardless of whether they operate under a basing-point or an f. o. b. system. It is not inconceivable that at the very same time they abandon the basing-point system they will actually raise their mill prices in order to reap the fullest possible advantage of the present seller's market. It will be recalled that last spring the steel producers raised their prices under the basing-point system and immediately brought upon their heads the outraged indignation not only of both parties of Congress but of the general public as well. If the steel producers now raise their prices under the f. o. b. system, they may expect a similar result to follow.

It would be a characteristic monopolistic move to endeavor to create the impression that such price increases were caused by the abandonment of an innocent system, whereas the fact is the Supreme Court has ruled against the system only so far as it is used collusively to suppress competition.

During the delivery of Mr. MORSE'S speech,

Mr. LUCAS. Mr. President, I have had this unanimous-consent request on my desk for some time. I had intended to submit it when the distinguished Senator from Oregon concluded his remarks.

Mr. MORSE. Mr. President, will it be necessary to have a quorum call?

Mr. LUCAS. If the Senator from Oregon thinks it is necessary, we can have one.

I ask unanimous consent that on the calendar day of Friday, August 12, at not later than the hour of 2 o'clock p. m., the Senate proceed to vote without further debate upon the motion of the Senator from Louisiana [Mr. LONG] to reconsider the vote by which Senate bill 1008, the so-called basing-point bill, was sent to conference; that in the event the motion be agreed to, debate thereafter on the part of any Senator upon any motion or question in connection with the House amendments to the bill be limited to one speech of not exceeding 15 minutes.

Mr. WHERRY. Mr. President, will the Senator yield?

Mr. LUCAS. I yield.

Mr. WHERRY. That is, provided the motion to reconsider prevails.

Mr. LUCAS. That is correct.

Mr. WHERRY. May I ask the distinguished majority leader if he would amend the time and make the hour 4 o'clock in the afternoon, and divide the time from the time the Senate convenes until 4 o'clock equally between the proponents and opponents of the bill? The reason I make that request is that I am satisfied, from the conversations I have had with other Senators, that there will be more speeches. Inasmuch as no Senator has moved to table the pending motion, and Senators have had a free hand, I feel that no Senator should be foreclosed. I respectfully submit to the majority leader that if he will amend the unanimous consent request to make the time 4 o'clock tomorrow afternoon, and divide the time equally between the proponents and opponents, I believe that an agreement can be reached.

Mr. LUCAS. I was hoping that we could reach the Interior Department appropriation bill tomorrow afternoon. We have had two pretty long days on this subject. I thought that by 2 o'clock Senators would be talked out on the merits of the motion to reconsider.

Mr. WHERRY. I should like to cooperate with the majority leader. I am satisfied from the conversations I have had with other Senators with whom I have spoken that it will be impossible to fix an hour earlier than 4 o'clock. I should like very much to enter into an agreement, and I appreciate the fact that the majority leader has asked for a unanimous consent agreement.

Mr. LUCAS. May I inquire who intends to speak?

Mr. WHERRY. I understand that the Senator from Nevada [Mr. McCARRAN] wishes to speak; the Senator from Maryland [Mr. O'CONOR] wishes to speak; and the Senator from Wyoming [Mr. O'MAHONEY] wishes to review the situation. One or two other Senators are thinking of making speeches.

I am trying to expedite the program. I should like to see a vote at as early an hour as possible. In fairness to all Senators, I believe that if the distinguished majority leader would agree to vote at 4 o'clock, and divide the time equally between the proponents and opponents, such an agreement would be satisfactory.

Mr. LUCAS. I will amend the unanimous consent request with respect to the time, and make it not later than the hour of 4 o'clock, so that if we get through by 2 o'clock, the vote can be had earlier. I will amend it to 4 o'clock.

Mr. WHERRY. Then the hour will be definite?

Mr. LUCAS. No. The hour will not be definite. It will be not later than 4 o'clock.

Mr. WHERRY. Mr. President, again I say that we ought to fix the hour definitely at 4 o'clock.

Mr. LUCAS. I do not know why we could not say "not later than the hour of 4 o'clock p. m.," so that we could vote earlier if there were no further debate.

Mr. WHERRY. I understand the distinguished majority leader's reason, and I think it a good one; but I am quite satisfied that in order to obtain a unanimous consent agreement the hour must be fixed at 4 o'clock.

Mr. LUCAS. Mr. President, I withdraw my request.

Mr. WHERRY. I hope the majority leader will not do that.

Mr. LUCAS. I have tried three times to obtain a unanimous consent agreement on this matter, and I cannot get it. I will let Senators talk as long as they want to talk. Again I say that the only thing I regret is that the basing-point bill was ever taken from the calendar, because of the amount of time we have spent on it.

Mr. WHERRY. Mr. President, I trust that the majority leader will not take offense at what I have said. It is difficult to obtain a unanimous consent agreement on this side of the aisle. I had to assure Senators that there would be opportunity to speak. I am quite satisfied that if we make the hour definite and certain, and the debate is concluded before that hour, there will be no objection to taking up any other bills on the calendar and then voting at 4 o'clock.

Mr. O'MAHONEY. Mr. President, if we say "not later than the hour of 4 o'clock p. m.," then it is quite certain that if the time until 4 o'clock is required, it will be available.

Mr. WHERRY. I understand. However, it is very difficult to obtain a unanimous-consent agreement to vote without fixing a definite hour at which to vote.

Mr. LUCAS. Mr. President, this kind of request has been made hundreds of times—"not later than" a certain hour. All I am trying to do is to save a little time. Perhaps I cannot save any time.

The PRESIDING OFFICER. Is the request satisfactory to the Senator from Nebraska?

Mr. WHERRY. After I have worked so hard to try to get Senators to agree to vote at 4 o'clock, I do not like to take the responsibility for shutting off any Senator. I have told Senators that the hour would be 4 o'clock. Even though the debate might be concluded at an earlier hour, I do not see why the majority leader could not take up something else if we should run out of speakers.

Mr. WATKINS. Mr. President, I point out that when the time is left indefinite, and the vote may occur before that time, Senators may have committee meetings or other engagements, and may not be able to return to the Chamber. That is the reason why, so far as I am concerned, the hour should be definitely fixed. I would not object to 3 o'clock, so long as we know that the vote is to be at a definite time.

Mr. LONG. Mr. President, I suggest splitting the difference between the majority leader and the minority leader, and making the time 3 o'clock, in order to arrive at a definite time. However, I suggest that the time be divided between myself or the Senator from Illinois, and possibly the minority leader or the senior Senator from Indiana [Mr. CAPEHART], in order that one side may not occupy all the time, and in order that no Senator may monopolize the debate, leaving the other side without opportunity to be heard on this issue. There has not been an average of more than six Senators on the floor of the Senate during the time this extended and heated debate has continued. I feel that tomorrow there will be a sufficient attendance, and that Senators who do not presently understand this legislation will learn what it is all about. Therefore, I think there should be some protection to see that both sides are fairly heard.

The PRESIDING OFFICER. Is it the understanding of the Chair that it is proposed that the morning hour be waived, and that the debate begin at 12 o'clock and continue until the hour specified?

Mr. LUCAS. Mr. President, there will be no morning hour if we enter into a unanimous-consent agreement to begin at 12 and debate during the time between 12 and whatever time we agree upon.

The PRESIDING OFFICER. Is the Senator from Illinois proposing that the debate begin at 12 o'clock, and that the time between 12 and 4 be equally divided between the two sides, to be controlled——

Mr. LUCAS. By the Senator from Louisiana [Mr. LONG].

Mr. O'MAHONEY. And the Senator from Maryland [Mr. O'CONOR].

Mr. WHERRY. As I understand, the unanimous-consent request is that the Senate convene at 12, vote at 4, and divide the time equally.

Mr. LUCAS. I did not agree to a vote at 4 o'clock. I do not particularly care. We are trying to protect a couple of Senators who may enter the Chamber at a quarter to four tomorrow. It is the same old story. I will agree to the hour of 4 o'clock, and let it go at that.

Mr. WHERRY. I thank the Senator from Illinois.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Illinois? The Chair hears none, and it is so ordered.

Mr. WHERRY. Mr. President, I thank the junior Senator from Oregon for permitting us to break into his speech. With his permission, I ask unanimous consent that this colloquy be placed at the end of his speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE MESSAGES REFERRED

As in executive session,

The PRESIDING OFFICER (Mr. HOLLAND in the chair) laid before the Senate messages from the President of the United States submitting sundry nominations, and withdrawing a nomination, which nominating messages were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

RECESS

Mr. LONG. Mr. President, in the absence of the majority leader, I move that the Senate take a recess until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 6 o'clock and 53 minutes p. m.) the Senate took a recess until tomorrow, Friday, August 12, 1949, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate August 11 (legislative day of June 2), 1949:

DIPLOMATIC AND FOREIGN SERVICE

The following-named persons for appointment in the Foreign Service in accordance with the provisions of section 517 of the Foreign Service Act of 1946:

Henry L. Deimel, Jr., of California, to be a Foreign Service officer of class 2, a consul, and a secretary in the diplomatic service of the United States of America.

Sydney L. W. Mellen, of Pennsylvania, to be a Foreign Service officer of class 3, a consul, and a secretary in the diplomatic service of the United States of America.

J. Wesley Adams, Jr., of Illinois, to be a Foreign Service officer of class 4, a consul, and a secretary in the diplomatic service of the United States of America.

John E. Utter, of New York, to be a Foreign Service officer of class 4, a consul, and a secretary in the diplomatic service of the United States of America.

Erwin W. Wendt, of Illinois, to be a Foreign Service officer of class 4, a consul, and a secretary in the diplomatic service of the United States of America.

The following-named persons, now Foreign Service officers of class 2 and secretaries in the diplomatic service, to be also consuls general of the United States of America:

LaVerne Baldwin, of New York.
Knowlton V. Hicks, of New York.
James B. Pilcher, of Georgia.

James E. Parks, of North Carolina, now a Foreign Service officer of class 3 and a secretary in the diplomatic service, to be also a consul general of the United States of America.

The following-named persons, now Foreign Service officers of class 5 and secretaries in the diplomatic service, to be also consuls of the United States of America:

Deane R. Hinton, of Illinois.
C. H. Walter Howe, of New Jersey.
Walter C. Isenberg, Jr., of Wisconsin.
Fred E. Waller, of Michigan.

Leslie L. Lewis, of Illinois, a Foreign Service reserve officer, to be a consul of the United States of America.

The following-named Foreign Service reserve officers to be secretaries in the diplomatic service of the United States of America:

Joseph A. Robinson, of New Jersey.
Charles Allan Stewart, of California.

DEPARTMENT OF DEFENSE

JOINT CHIEFS OF STAFF

Gen. Omar Nelson Bradley, United States Army, for appointment as Chairman of the Joint Chiefs of Staff in the Department of Defense.

DEPARTMENT OF THE NAVY

CHIEF OF NAVAL OPERATIONS

Admiral Louis E. Denfeld, United States Navy, to be Chief of Naval Operations for a period of 2 years commencing December 15, 1949.

WITHDRAWAL

Executive nomination withdrawn from the Senate August 11 (legislative day of June 2), 1949:

POSTMASTER

WISCONSIN

Clarence P. Gehl, Hilbert, Wis.

HOUSE OF REPRESENTATIVES

THURSDAY, AUGUST 11, 1949

The House met at 12 o'clock noon.

The Acting Chaplain, the Reverend James P. Wesberry, pastor, Morningside Baptist Church, Atlanta, Ga., offered the following prayer:

When our souls are wounded by the affairs of the world, we turn in tender love to Thee, almighty and ever-blessed God, for Thy kindness is loving and Thy mercy is great. Thou wilt take our trembling hands in Thine and lead us on our way. We must know that Thou art infinitely long-suffering and eternally patient, for so often we lose patience with ourselves and without such blessed assurance we would be lost and undone. Thou who art the Lord of all of our days, give us, we reverently beseech Thee, wisdom for our responsibilities, vision for our times, faith for the demands that are made upon us, constancy like the Master's, love that is greater than knowledge, and peace which passeth all understanding. This prayer we offer not for our own selfish glory but that we might more effectively serve our Nation and glorify Thy holy name. Amen.

The Journal of the proceedings of yesterday was read and approved.

CALL OF THE HOUSE

Mr. JONES of Missouri. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. McCORMACK. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 173]

Baring	Hall,	Powell
Bland	Edwin Arthur	Reed, Ill.
Bolton, Ohio	Hébert	Rogers, Mass.
Breen	Hinshaw	Sabath
Bulwinkle	Jonas	Sadowski
Burleson	Kennedy	St. George
Clevenger	Kilday	Secrest
Cole, N. Y.	Lind	Sikes
Dague	McGregor	Smith, Ohio
Dolliver	Macy	Thomas, N. J.
Eaton	Marshall	Towe
Fellows	Mason	Welch, Calif.
Gilmer	Michener	Whitaker
Gordon	Norton	Winstead
Gregory	Plumley	Woodhouse

The SPEAKER. On this roll call 391 Members have answered to their names; a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

AMENDING THE FAIR LABOR STANDARDS ACT OF 1938

The SPEAKER. The unfinished business is the reading of the engrossed copy of the bill (H. R. 5856) to provide for the amendment of the Fair Labor Standards Act of 1938, and for other purposes, which was demanded on yesterday, August 10, by the gentleman from New York [Mr. MARCANTONIO].

The Clerk will read the engrossed copy.

Mr. RANKIN. Mr. Speaker, I ask unanimous consent that further reading of the engrossed copy be dispensed with.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. RANKIN. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD.

The SPEAKER. Not at this point. The Chair will refuse to recognize Members to extend their remarks at this time.

The question is on the passage of the bill.

Mr. WOOD. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. WOOD. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion offered by the gentleman from Georgia [Mr. WOOD].

The Clerk read as follows:

Mr. WOOD moves to recommit the bill H. R. 5856 to the Committee on Education and Labor.

The SPEAKER. The question is on agreeing to the motion.

Mr. WOOD. On that, Mr. Speaker, I demand the yeas and nays.

The yeas and nays were refused.

The question was taken; and on a division (demanded by Mr. WOOD) there were—ayes 41, noes 242.

So the motion was rejected.

The SPEAKER. The question is on the passage of the bill.

Mr. McCORMACK. Mr. Speaker, on this vote I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 361, nays 35, answering "present" 1, not voting 35, as follows:

[Roll No. 174]

YEAS—361

Abbitt	Donohue	Kearney
Addonizio	Douglas	Kearns
Albert	Doyle	Keating
Allen, Calif.	Durham	Kee
Allen, Ill.	Eberharter	Keefe
Allen, La.	Elliott	Kelley
Andersen, H. Carl	Ellsworth	Keogh
Anderson, Calif.	Elston	Kerr
Andresen, August H.	Engel, Mich.	King
Angell	Engle, Calif.	Kirwan
Arends	Evins	Klein
Aspinall	Fallon	Kruse
Auchincloss	Feighan	Kunkel
Bailey	Fenton	Lane
Barden	Fernandez	Lanham
Barrett, Pa.	Fisher	Larcade
Barrett, Wyo.	Flood	Latham
Bates, Ky.	Fogarty	LeCompte
Bates, Mass.	Forand	LeFevre
Battle	Ford	Lemke
Beall	Frazier	Lesinski
Beckworth	Fugate	Lichtenwalter
Bennett, Mich.	Fulton	Linehan
Bentsen	Furcolo	Lodge
Biemiller	Garmatz	Lovre
Bishop	Gary	Lucas
Blackney	Gavin	Lyle
Blatnik	Gillette	Lynch
Boggs, Del.	Golden	McCarthy
Boggs, La.	Goodwin	McConnell
Bolling	Gore	McCormack
Bolton, Md.	Gorski, Ill.	McCulloch
Bonner	Gorski, N. Y.	McDonough
Bosone	Gossett	McGrath
Boykin	Graham	McGuire
Brehm	Granahan	McKinnon
Brooks	Granger	McMillen, Ill.
Brown, Ga.	Green	McSweeney
Brown, Ohio	Gross	Mack, Ill.
Bryson	Hagen	Mack, Wash.
Buchanan	Hale	Madden
Buckley, Ill.	Hall, Edwin Arthur	Magee
Buckley, N. Y.	Hall, Leonard W.	Mahon
Burdick	Halleck	Mansfield
Burke	Hand	Marcantonio
Burnside	Harden	Marsalis
Burton	Hardy	Marshall
Byrne, N. Y.	Hare	Martin, Iowa
Camp	Harris	Martin, Mass.
Canfield	Harrison	Merrow
Cannon	Hart	Meyer
Carlyle	Harvey	Michener
Carnahan	Havenner	Miles
Carroll	Hays, Ohio	Miller, Calif.
Case, N. J.	Hedrick	Mills
Case, S. Dak.	Heffernan	Mitchell
Cavalcante	Heller	Monroney
Celler	Herlong	Morgan
Chatham	Herter	Morris
Chesney	Heselton	Morrison
Chiperfield	Hill	Morton
Christopher	Hoeven	Moulder
Chudoff	Hoffman, Ill.	Multer
Church	Holifield	Murdock
Clemente	Holmes	Murphy
Colmer	Hope	Murray, Wis.
Cooley	Horan	Nelson
Cooper	Howell	Nicholson
Corbett	Huber	Nixon
Cotton	Hull	Noland
Coudert	Irving	Norblad
Crawford	Jackson, Calif.	Norrell
Crook	Jackson, Wash.	O'Brien, Ill.
Crosser	Jacobs	O'Brien, Mich
Cunningham	James	O'Hara, Ill.
Davenport	Javits	O'Hara, Minn
Davies, N. Y.	Jenison	O'Konski
Davis, Ga	Jenkins	O'Neill
Davis, Tenn.	Jennings	O'Sullivan
Davis, Wis.	Jensen	O'Toole
Dawson	Johnson	Pace
Deane	Jones, Ala.	Passman
DeGraffenried	Jones, Mo.	Patman
Delaney	Jones, N. C.	Patten
Denton	Judd	Patterson
D'Ewart	Karst	Perkins
Dingell	Karsten	Peterson
Dollinger	Kean	Pfeifer, Joseph L.
Dondero		Pfeiffer, William L.